

Title 17

ZONING

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* Editor's Note: Ord. No. 338 approves and adopts the zoning ordinance of Butte-Silver Bow.

Chapter 17.02

GENERAL PROVISIONS

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17.02.010 Title.

The ordinance codified in this title is an ordinance to repeal all ordinances in conflict herewith, establishing comprehensive zoning regulations for Butte-Silver Bow, state of Montana; providing for the administration, enforcement and amendment thereof in accordance with the statutes of the state of Montana, as amended, and it shall be known as and may be referred to and cited as "The Butte-Silver Bow, state of Montana, zoning ordinance." (Ord. 53 § 10-1, 1978)

17.02.020 Interpretation, purpose and conflict.

In interpreting and applying the provisions of this title, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. Where this title imposes a greater restriction upon the use of buildings than are imposed or required by other ordinances, rules, regulations, or easements, covenants or agreements, the provisions of this title shall control. (Ord. 53 § 10-2, 1978)

Chapter 17.04

DEFINITIONS

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17.04.005 Interpretation of grammar.

Unless the context otherwise requires, the following definitions set forth in this chapter shall be used in the interpretation and construction of this title. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular; the word “building” shall include the word structure”; the word “used” shall include “arranged, designed, constructed, altered, converted, rented, leased” or “intended to be used” and the word “shall” is mandatory and not directory. (Ord. 53 § 10-6 (part), 1978)

17.04.010 Accessory or auxiliary use or structure.

“Accessory or auxiliary use or structure” means a use or structure subordinate to the principal use of a building or to the principal use of land and which is located on the same lot serving a purpose customarily incidental to the use of the principal building or land use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or

roof, such accessory building shall be considered part of the main building. (Ord. 53 § 10-6 (part), 1978)

17.04.015 Actual construction.

“Actual construction” means and includes the placing of construction materials in permanent position and fastened in a permanent manner. (Ord. 53 § 10-6 (part), 1978)

17.04.016 Adult bookstore.

“Adult bookstore” means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities (see Section 17.04.453), or specified anatomical areas (see Section 17.04.452), or an establishment with a segment or section devoted to the sale or display of such material. (Ord. 117 § 1(A) (part), 1980: Ord. 53 § 10-6 (part), 1978)

17.04.017 Adult entertainment cabaret.

“Adult entertainment cabaret” means a public or private establishment which is licensed to serve food and/or alcoholic beverages, which features topless dances, strippers, male or female impersonators, or similar entertainers. (Ord. 117 § 1(A) (part), 1980: Ord. 53 § 10-6 (part), 1978)

17.04.018 Adult mini motion picture theater.

“Adult mini motion picture theater” means an enclosed building with a capacity for less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities (see Section 17.04.453), or specified anatomical areas (see Section 17.04.452), for observation by patrons therein. (Ord. 117 § 1(A) (part), 1980: Ord. 53 § 10-6 (part), 1978)

17.04.019 Adult motion picture theater.

“Adult motion picture theater” means an enclosed building with a capacity of fifty or more persons used

regularly and routinely for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities (see Section 17.04.453), or specified anatomical areas (see Section 17.04.452), for observation by patrons therein. (Ord. 117 § 1(A) (part), 1980: Ord. 53 § 10-6 (part), 1978)

17.04.020 Agriculture.

“Agriculture” means the use of the land for such purposes as farming, dairying, pasturage, grazing, animal and poultry husbandry, silviculture and removal of forest products, floriculture, and horticulture. (Ord. 53 § 10-6 (part), 1978)

17.04.025 Airport.

“Airport” means the Bert Mooney-Silver Bow County Airport. (Ord. 53 § 10-6 (part), 1978)

17.04.030 Airport elevation.

“Airport elevation” means the established elevation of the highest point on the usable landing area. The airport elevation of the Bert Mooney-Silver Bow County Airport is five thousand five hundred fifty-three feet above sea level. (Ord. 53 § 10-6 (part), 1978)

17.04.035 Airport hazard.

“Airport hazard” means any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft. (Ord. 53 § 10-6 (part), 1978)

17.04.040 Alley or lane.

“Alley” or “lane” means a public or private way not more than thirty feet wide affording generally secondary means of access to abutting property and not intended for general traffic circulation. (Ord. 53 § 10-6 (part), 1978)

17.04.045 Alteration.

“Alteration” means change or rearrangement of the structural parts of existing facilities, or enlargement by extending the sides or increasing height or depth, or moving from one location to another. (Ord. 53 § 10-6 (part), 1978)

17.04.048 Amusement centers, skill device gamerooms, penny arcades, and recreation centers.

“Amusement centers,” “skill device gamerooms,” “penny arcades,” and “recreation centers” mean a place where various types of entertainment, including more than three video electronic skill games, are made available as a means of entertainment to the general public. (Ord. 164 § 1(E), 1982: Ord. 53 § 10-6 (part), 1978)

17.04.050 Apartment.

“Apartment” means a suite of rooms or a room in a multi-family building arranged and intended for a place of residence for a single family or a group of individuals living together as a single housekeeping unit. (Ord. 53 § 10-6 (part), 1978)

17.04.055 Apartment hotel.

“Apartment hotel” means an apartment house which furnishes services for the use of its tenants which are ordinarily furnished by hotels. (Ord. 53 § 10-6 (part), 1978)

17.04.060 Apartment house.

For the definition of “apartment house” see dwelling, multi-family. (Ord. 53 § 10-6 (part), 1978)

17.04.065 Approach, transitional, horizontal and conical zones.

“Approach, transitional, horizontal, and conical zones” apply to the area under the approach, transitional, horizontal, and conical surfaces defined in Federal Aviation Regulations (FAR), Part 77. (Ord. 53 § 10-6 (part), 1978)

17.04.070 Bar or tavern.

“Bar” or “tavern” means an establishment where alcoholic beverages are served on the premises and where the total sales of alcohol exceeds the total sales of food. (Ord. 53 § 10-6 (part), 1978)

17.04.075 Basement.

“Basement” means a story whose floor line is below grade at any entrance or exit and having more than one-half of its clear height below the adjoining finished grade. (Ord. 53 § 10-6 (part), 1978)

17.04.077 Big Hole River.

“Big Hole River” means the floodway fringe of the Big Hole River, including all primary and secondary channels. (Ord. 04-3 § 1, 2004)

17.04.078 Big Hole River conservation development standards intergovernmental agreement.

“Big Hole River conservation development standards intergovernmental agreement” means the intergovernmental agreement between Anaconda-Deer Lodge County, a city/county consolidated and chartered government organized under the laws of the state of Montana, Beaverhead County, a political subdivision of the state of Montana, the city and county of Butte-Silver Bow, a municipal corporation and political subdivision of the state of Montana, and Madison County, a political subdivision of the state of Montana, that facilitates the establishment and implementation of the conservation development standards along the Big Hole River. (Ord. 05-4 § 1, 2005)

17.04.079 Big Hole River Conservation development standards review board.

“Big Hole River conservation development standards review board” means a nine-member citizens advisory board made up of one representative of the Big Hole watershed committee and two representatives from each of the following governmental entities: Anaconda-Deer Lodge County, a city-county consolidated and chartered government organized

under the laws of the state of Montana, Beaverhead County, a political subdivision of the state of Montana, the city and county of Butte-Silver Bow, a municipal corporation and political subdivision of the state of Montana, and Madison County, a political subdivision of the state of Montana. The review board shall adopt bylaws as needed to carry out the Big Hole River conservation development standards intergovernmental agreement in compliance with the zoning ordinance. (Ord. 05-4 § 2, 2005)

17.04.080 Board of adjustment.

“Board of adjustment” is a board consisting of five members appointed by the chief executive and confirmed by the council of commissioners. (Ord. 53 § 10-6 (part), 1978)

17.04.085 Boardinghouse, lodginghouse, roominghouse.

“Boardinghouse” and/or “lodginghouse,” including “roominghouse,” means a building, or portion thereof, other than a hotel, where lodging and/or meals for five or more persons are provided for compensation. (Ord. 53 § 10-6 (part), 1978)

17.04.090 Breezeway.

“Breezeway” means a roofed passageway joining two separate buildings. (Ord. 53 § 10-6 (part), 1978)

17.04.092 Bridge private.

“Bridge private” means a bridge that is not owned by the federal, state or local government or a division thereof. (Ord. 04-3 § 2, 2004)

17.04.095 Building.

“Building” means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed to be a separate building. Except, however, as used in the historic overlay zone, “building” shall apply to all structures except accessory or ancillary facilities such

as sheds, private garages and similar structures. (Ord. 238 § 1(A)(1), 1985: Ord. 53 § 10-6 (part), 1978)

17.04.099 Building, height of.

“Building, height of” means the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

A. The elevation of the highest adjoining sidewalk or ground surface within a five foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten feet above lowest grade.

B. An elevation ten feet higher than the lowest grade when the sidewalk or ground surface described in subsection A of this section is more than ten feet above lowest grade.

The height of a stepped or terraced building is the maximum height of any segment of the building. (Ord. 299 § 1(A) (part), 1987: Ord. 53 § 10-6 (part), 1978)

17.04.103 Building official.

“Building official” means the official or other designated authority charged with the administration and enforcement of the latest adopted edition to the Uniform Building Code and supplements, or his duly authorized representative. (Ord. 738 § 1(A)(2), 1985: Ord. 53 § 10-6 (part), 1978)

17.04.105 Building or setback line.

“Building or setback line” means the line outside the right-of-way of a street beyond which no building or part thereof shall project, except as otherwise provided by this title. (Ord. 53 § 10-6 (part), 1978)

17.04.110 Business or commercial use.

“Business or commercial use” means:

A. The purchase, sale, offering for sale, or other transaction involving the handling or disposition of any article, service, or commodity for livelihood,

profit, management, or occupancy of an office building, offices, recreational, or amusement enterprises;

B. The maintenance and use of buildings, offices, structures, or premises by professionals and trades, or persons rendering services. (Ord. 53 § 10-6 (part), 1978)

17.04.112 Butte National Historic Landmark District.

“Butte National Historic Landmark District,” hereinafter called the “landmark district,” means those properties within the city and county of Butte-Silver Bow which have been officially recognized by the Secretary of the United States Department of the Interior as nationally significant by contributing to the understanding of national, state and local history, and is generally described as being bounded on the south by the railroad right-of-way south of Front Street, by May Street on the west, by the Berkeley Pit on the east, and the town of Walkerville on the north. (Ord. 238 § 1(A)(3), 1985: Ord. 53 § 10-6 (part), 1978)

17.04.113 Butte-Silver Bow.

“Butte-Silver Bow” means the local government of the city and county of Butte-Silver Bow, state of Montana, and where applicable, includes its officers, employees, agencies, boards and commissions. (Ord. 238 § 1(A)(4), 1985: Ord. 53 § 10-6 (part), 1978)

17.04.115 Campgrounds.

“Campgrounds” mean any area or tract of land used or designed to accommodate two or more mobile homes, motor homes, travel trailers, pickup campers, camping trailers, cabins, tents or other camping outfits. (Ord. 53 § 10-6 (part), 1978)

17.04.120 Camping trailer or camping vehicle.

“Camping trailer” and “camping vehicle” mean a vehicular portable structure designed as a temporary dwelling for travel, recreation and vacation uses, which:

A. Is identified on the unit by the manufacturer as a camping trailer or camping vehicle;

B. Is not more than eight feet in body width; and

C. Is not more than thirty-five feet in length. (Ord. 53 § 10-6 (part), 1978)

17.04.125 Carport, private.

“Private carport” means a private garage which is not entirely enclosed on all sides by sight-obscuring walls and/or doors. (Ord. 53 § 10-6 (part), 1978)

17.04.130 Cellar.

“Cellar” means that portion of a building partly underground and having more than one-half of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories. (Ord. 53 § 10-6 (part), 1978)

17.04.132 Child day care center.

“Child day care center” means a place in which supplemental parental care is provided to thirteen or more children on a regular basis. The licensing and reevaluation of child day care centers is the responsibility of the state of Montana Department of Public Health and Human Services. (Ord. 00-9 § 1 (part), 2000)

17.04.135 Clinic.

“Clinic” means a place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room, nor kept overnight on the premises. (Ord. 53 § 10-6 (part), 1978)

17.04.138 Community historic preservation officer.

“Community historic preservation officer,” hereinafter called “preservation officer,” means the official appointed by the local government who is charged with the responsibility of enforcing the regulations applicable to the historic overlay zone and who shall serve as the secretary to the historic preservation commission under the supervision of the

chief executive. (Ord. 238 § 1(A)(5), 1985; Ord. 53 § 10-6 (part), 1978)

17.04.140 Conditional use.

“Conditional use” means a use which is specifically listed as a conditional use for a zone. (Ord. 53 § 10-6 (part), 1978)

17.04.143 Contributing historic significance.

“Contributing historic significance” means a building or structure that contributes to the landmark district by location, design, setting, materials, workmanship, feeling and association and adds to the landmark district’s sense of time and place and historic development. (Ord. 238 § 1(A)(6), 1985; Ord. 53 § 10-6 (part), 1978)

17.04.145 Convalescent home or rest home.

“Convalescent home” or “rest home” means a home designed for the care of patients after they leave the hospital but before they are released from observation and treatment. (Ord. 53 § 10-6 (part), 1978)

17.04.147 Correctional housing.

“Correctional housing” means community-based residential housing, and includes housing sites intended for use by adults or juveniles as a part of a correctional program. (Ord. 552 § 1 (part), 1996)

17.04.150 Court.

“Court” means an open, unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings, which is enclosed on three or more sides. (Ord. 53 § 10-6 (part), 1978)

17.04.152 Day care home, family.

“Family day care home” means a place in which supplemental parental care is provided to three to six children, no more than three children under age two unless care is provided to infants only. For places caring for infants, “family day care home” means a place in which supplemental parental care is provided for up to four infants. No other children shall be in attendance. The registration and reevaluation of family day care homes is the responsibility of the state of Montana Department of Public Health and Human Services. (Ord. 00-9 § 1 (part), 2000)

17.04.153 Day care home, group.

“Group day care home” means a place in which supplemental parental care is provided to seven to twelve children on a regular basis unless care is provided to infants only. For places caring for infants, “group day care home” means a place in which supplemental parental care is provided for up to eight infants. No other children shall be in attendance. The registration and reevaluation of group day care homes is the responsibility of the state of Montana Department of Public Health and Human Services. (Ord. 00-9 § 1 (part), 2000)

17.04.155 Drive-in restaurant.

“Drive-in restaurant” means any retail establishment preparing and serving food or drink which is not consumed solely within the confines of the building in which the food is prepared. (Ord. 53 § 10-6 (part), 1978)

17.04.160 Dwelling unit.

“Dwelling unit” means one room, or a suite of two or more rooms, designed for or used by one family for living and sleeping purposes and having one kitchen or kitchenette. (Ord. 53 § 10-6 (part), 1978)

17.04.165 Family.

“Family” means one or more individuals related by blood, marriage or adoption or not more than five individuals who are not so related, living together as a single housekeeping unit in a dwelling, and maintaining and using the same and certain other housekeeping facilities in common, and having such meals as they may prepare and eat together at home; provided, however, that fraternities, dormitories, clubs, rooming-houses having over two roomers, and like groups of individuals shall not be considered a family. (Ord. 53 § 10-6 (part), 1978)

17.04.167 Fence, height.

The vertical distance measured from the centerline of the street or alley to the highest point of the fence. Barbed wire above eight feet excluded in measurement of fence height. (Ord. 312 § 1 (part), 1987)

17.04.168 Fire marshal.

“Fire marshal” means the fire officer of the fire department serving the jurisdictional area or an authorized representative charged with the administration and enforcement of the latest adopted addition of the Uniform Fire Code. (Ord. 238 § 1(A)(7), 1985; Ord. 53 § 10-6 (part), 1978)

17.04.170 Floor area.

“Floor area” means the sum of the areas of the several occupied floors of a building, measured from the exterior walls or from the centerline of walls separating buildings, excluding such features as covered walkways, covered open areas, porches, pipe trenches, exterior terraces, or steps, and chimney roof overhangs. (Ord. 53 § 10-6 (part), 1978)

17.04.180 Frontage.

“Frontage” means that boundary of a lot which is along an existing or dedicated public street, or, where no public street exists, is along a public way. (See yard, front, Section 17.04.520.) (Ord. 53 § 10-6 (part), 1978)

17.04.185 Garage, attached.

“Attached garage” means an accessory building or structure for the parking or storage of motor vehicles which is joined to the residence by a breezeway and/or a common party wall and which is designed and constructed in harmony with said residence. To be considered attached by a breezeway, the garage shall not be located more than twenty feet from the residence and the roof of the breezeway shall cover an area not less than ten-feet wide extending from the garage to the residence. (Ord. 53 § 10-6 (part), 1978)

17.04.190 Garage, private.

“Private garage” means a detached accessory building or a portion of the principal building used or intended for use by the occupants of the premises for the storage of self-propelled passenger vehicles or trailers. (Ord. 53 § 10-6 (part), 1978)

17.04.195 Garage, public.

“Public garage” means a structure, or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of self-propelled vehicles or trailers. (Ord. 53 § 10-6 (part), 1978)

17.04.196 Grade.

“Grade” or “adjacent ground elevation” means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building. (Ord. 299 § 1(A) (part), 1987; Ord. 53 § 10-6 (part), 1978)

17.04.197 Habitable space or room.

“Habitable space or room” means space in a structure for living, sleeping, eating or cooking. Storage or utility space and similar areas are not considered habitable space. (Ord. 122 § 1(2) (part), 1980; Ord. 53 § 10-6 (part), 1978)

17.04.200 Height limits.

For the purpose of determining the “height limits” in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified. (Ord. 53 § 10-6 (part), 1978)

17.04.202 Historic overlay zone.

“Historic overlay zone” means a special zoning designation which shall apply to all properties within the boundaries established in Section 17.33.030 in order to protect the historical significance of existing structures by prohibiting the undue moving, removal or demolition of said structures. The historic overlay zone shall be in addition to the established zoning currently applied to all properties within the historic overlay zoning district and shall not affect the permitted uses and/or development standards of said underlying zones. (Ord. 238 § 1 (A)(8), 1985; Ord. 53 § 10-6 (part), 1978)

17.04.203 Historic preservation commission.

“Historic preservation commission,” hereinafter called the “preservation commission,” means the board appointed by the local government which is responsible for creating and administering a preservation program and for administering the historic preservation provisions of this title. (Ord. 238 § 1(A)(9), 1985; Ord. 53 § 10-6 (part), 1978)

17.04.205 Home occupation.

“Home occupation” means an occupation carried on entirely within a residence by members of the family who reside on the premises and one employee in addition to members of the family involved in the occupation and in any case no more than two persons in any dwelling unit, which activity is clearly incidental to the use of said residence as a dwelling and does not change the residential character thereof, is conducted in such a manner as to not give any outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term, and does not infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes for which purpose the residential zone was created and primarily intended. (Ord. 175 § 1(I), 1982; Ord. 53 § 10-6 (part), 1978)

17.04.210 Hospital.

“Hospital” means a building, or portion thereof, used for the accommodation of sick, injured or

infirm persons, including a sanitarium. (Ord. 53 § 10-6 (part), 1978)

17.04.215 Hotel.

“Hotel” means a building in which lodging is provided and offered to the public for compensation and which is open to transient guests, as compared to a boardinghouse, or lodginghouse, or motel and which does not offer cooking facilities in individual rooms. (Ord. 53 § 10-6 (part), 1978)

17.04.220 Identification sign.

“Identification sign” means a sign pertaining to and containing only the name and trademark of the use or business conducted on the lot where the sign is located. Reader boards attached thereto giving time, temperature or message concerning an entire shopping center are allowed. Advertising of products is not allowed. (Ord. 53 § 10-6 (part), 1978)

17.04.225 Industry.

“Industry” means the manufacture, storage, extraction, fabrication, processing, reduction, destruction, conversion, or wholesaling of any article, substance or commodity, or any treatment thereof. (Ord. 53 § 10-6 (part), 1978)

17.04.230 Junkyard or salvage yard.

“Junkyard” or “salvage yard” means a place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawn shops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials incidental to manufacturing operations. (Ord. 53 § 10-6 (part), 1978)

17.04.235 Kennel.

“Kennel” means any lot or premises on which four or more dogs or cats over four months of age are kept for commercial or noncommercial purposes. (Ord. 53 § 10-6 (part), 1978)

17.04.237 Landscaping.

“Landscaping” means any placement of living plants such as trees, shrubs, vines, ground covers, flowers or lawns; and may include accessory natural features such as decorative rock, stone and bark, structured features, including but not limited to fountains, reflecting pools, art works, screen walls, fences and benches. (Ord. 100 § 1 (part), 1980: Ord. 53 § 10-6 (part), 1978)

17.04.240 Loading space.

“Loading space” means an off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access. (Ord. 53 § 10-6 (part), 1978)

17.04.245 Lot.

“Lot” means a piece or parcel of land occupied or intended to be occupied by a principal building and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as required by this title, and having frontage on a public street. When an individual desires more than one principal building per lot, follow the requirements of Chapter 17.46. (Ord. 53 § 10-6 (part), 1978)

17.04.250 Lot, corner.

“Corner lot” means a lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five degrees. The point of intersection of the street lines is the “corner.” (Ord. 53 § 10-6 (part), 1978)

17.04.255 Lot, depth.

“Depth of a lot” means the mean horizontal distance between the front and rear lot lines. (Ord. 53 § 10-6 (part), 1978)

17.04.260 Lot, interior.

“Interior lot” means a lot other than a corner lot. (Ord. 53 § 10-6 (part), 1978)

17.04.265 Lot lines.

“Lot lines” means the property lines bounding the lot. (Ord. 53 § 10-6 (part), 1978)

17.04.270 Lot line, front.

“Front lot line” means the line separating the lot from the street on which it fronts. (Ord. 53 § 10-6 (part), 1978)

17.04.275 Lot line, rear.

“Rear lot line” means the lot line opposite and most distant from the front lot line. (Ord. 53 § 10-6 (part), 1978)

17.04.280 Lot line, side.

“Side lot line” means any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line. (Ord. 53 § 10-6 (part), 1978)

17.04.285 Lot line, street or alley.

“Street or alley lot line” means a lot line separating the lot from a street or alley. (Ord. 53 § 10-6 (part), 1978)

17.04.290 Lot of record.

“Lot of record” means a lot which is part of a subdivision which is recorded in the office of the clerk and recorder, or a lot or parcel described by metes and bounds, the deed to which has been so recorded. (Ord. 53 § 10-6 (part), 1978)

17.04.295 Lot, revised frontage.

“Revised frontage lot” means a lot on which the frontage is at right angles or approximately right angles (interior angles less than one hundred thirty-five degrees) to the general pattern in the area. (Ord. 53 § 10-6 (part), 1978)

17.04.300 Lot, through.

“Through lot” means a lot having frontage on two parallel or approximately parallel streets. (Ord. 53 § 10-6 (part), 1978)

17.04.305 Lot width.

“Lot width” means the mean width of the lot measured at right angles to its depth. (Ord. 53 § 10-6 (part), 1978)

17.04.306 Manufactured home.

See Chapter 17.37. (Ord. 437 § 1, 1992)

17.04.308 Manufactured home park.

(Mobile home park.) See Chapter 17.37. (Ord. 437 § 2, 1992)

17.04.310 Mobile home.

“Mobile home” means a transportable, factory-built home designed to be used as a year-round residential dwelling and built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards of 1974, which became effective June 15, 1976. In many cases, mobile homes were built to voluntary industry standards of the American National Standards Institute’s Standards for Mobile Homes. (See Manufactured Home Class C, Chapter 17.37.) (Ord. 437 § 3, 1992; Ord. 53 § 10-6 (part), 1978)

17.04.320 Modular home.

See Chapter 17.37. (Ord. 437 § 6, 1992)

17.04.325 Motel or motor hotel.

“Motel” or “motor hotel” means a series of attached, semiattached or detached sleeping or living units for the accommodation of automobile transient guests, said units having convenient access to off-street parking spaces, for the exclusive use of the guests or occupants. A motel or motor hotel may offer cooking facilities. (Ord. 53 § 10-6 (part), 1978)

17.04.330 Nonconforming building or structure.

“Nonconforming building or structure” means any building, natural object structure, or portion thereof, which does not conform to the regulations established in this title because such building is designed or intended for a use which is not a permitted use of land within the zone where the building is located, or because such building does not conform in bulk to the regulations of yards, height, area, or off-street parking, but which building lawfully existed or was under construction at the time of passage of the regulation with which it does not conform. (Ord. 53 § 10-6 (part), 1978)

17.04.335 Nonconforming use.

“Nonconforming use” means a use which was lawful at the time the ordinance codified in this title was adopted but which use, because of such adoption, or subsequent changes in zoning district

boundaries or regulations, does not conform to the regulations of the district in which the use exists. (Ord. 53 § 10-6 (part), 1978)

17.04.340 Nonprecision instrument runway.

“Nonprecision instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on a Federal Aviation Administration (FAA) planning document or military airport planning document. (Ord. 53 § 10-6 (part), 1978)

17.04.345 Open space.

“Open space” means a land or water area devoid of building and other physical structures except where accessory to the provision of recreation. (Ord. 53 § 10-6 (part), 1978)

17.04.347 Ordinary high water mark.

“Ordinary high water mark” means the line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to, deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A floodplain adjacent to surface waters is not considered to lie within the surface water’s high-water marks. (Ord. 05-4 § 3, 2005)

17.04.350 Parking area, public.

“Public parking area” means an open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free or as an accommodation for clients or customers. (Ord. 53 § 10-6 (part), 1978)

17.04.355 Parking space.

For the purpose of this title, an “off-street parking space” consists of a space adequate for parking an

automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and unparked without moving another.

For the purpose of computation, an off-street parking space and necessary access and maneuvering room may be estimated at four hundred square feet, but off-street parking spaces requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of Butte-Silver Bow. (Ord. 90 § 1(B), 1979; Ord. 53 § 10-6 (part), 1978)

17.04.360 Person.

“Person” means any natural person, firm, copartnership, corporation, association, or organization. (Ord. 53 § 10-6 (part), 1978)

17.04.365 Planned unit development (PUD).

“Planned unit development (PUD)” means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks, or any combination thereof which includes a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in a common ownership or use. (Ord. 53 § 10-6 (part), 1978)

17.04.370 Planning board.

“Planning board” means the Butte-Silver Bow planning board. (Ord. 53 § 10-6 (part), 1978)

17.04.375 Porch, open.

“Open porch” means a roofed structure, open on two or more sides, projecting from the front, side or rear wall of the building. (Ord. 53 § 10-6 (part), 1978)

17.04.380 Precision instrument runway.

“Precision instrument runway” means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on a Federal Aviation Administration (FAA) approved airport layout plan; a military service’s approved military airport layout plan; and other FAA planning document, or military service’s military airport planning document. (Ord. 53 § 10-6 (part), 1978)

17.04.385 Primary surface.

“Primary surface” means a surface longitudinally centered on a runway and extending two hundred feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulation (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. (Ord. 53 § 10-6 (part), 1978)

17.04.390 Property line, front.

“Front property line” means the line separating the street from the front of the lot as shown on the official recorded plat of the property, and as modified by any subsequent vacation, condemnation, or conveyance for public purposes. In the case of unplatted property or when the building inspector cannot determine the intended front property line of a platted lot from the official recorded plat, he shall, upon request for a building permit, determine the front property line for the purposes of this title. It shall be the duty of the building inspector in making such determination to take into consideration the character and location of all neighboring improvements and the spirit and intent of this title as applied in the surrounding zone. A through lot shall be considered to have a front property line on each of the opposite parallel or approximately parallel streets upon which said lot has frontage. (Ord. 53 § 10-6 (part), 1978)

17.04.395 Property line, rear.

“Rear property line” means the property line of a lot most nearly parallel to the front property line of the same lot as defined in this title; except, that for triangular or gore shaped lots the rear property line shall be represented by the point of intersection of the two property lines which are not the front property line as defined in this title. A through lot capable of development with two residences facing opposite streets, with each residence having sufficient land to comply with the lot area requirements of the zone in which the lot is located, shall be considered to have a rear property line midway between the two front property lines for the purposes of this title. (Ord. 53 § 10-6 (part), 1978)

17.04.397 Public housing.

“Public housing” means residential housing in which public funds are used to subsidize or directly finance occupancy of tenants. (Ord. 552 § 1 (part), 1996)

17.04.400 Public improvement.

“Public improvement” means any structure or facility constructed to serve the residents of a subdivision or the general public, such as parks, streets, or roads, sidewalks, curbs and gutter, street lighting, water supply, sewage disposal, drainage, and utility systems. (Ord. 53 § 10-6 (part), 1978)

17.04.405 Residence.

“Residence” means a building, or portion thereof, designed exclusively as a place of habitation for one or more persons, but excluding dormitories, motels, hotels, tourist homes, hospitals, and nursing homes. House trailers, campers, and similar vehicles shall not be considered a residence. All new, relocated and remodeled structures shall meet uniform building codes and all other local construction codes. (Ord. 53 § 10-6 (part), 1978)

17.04.410 Residence, one-family.

“One-family residence” means a residence containing only one dwelling unit. (Ord. 53 § 10-6 (part), 1978)

17.04.415 Residence, two-family.

“Two-family residence” means a residence containing two dwelling units. (Ord. 53 § 10-6 (part), 1978)

17.04.420 Residence, multi-family.

“Multi-family residence” means a residence containing three or more dwelling units. (Ord. 53 § 10-6 (part), 1978)

17.04.425 Restaurant.

“Restaurant” means an eating establishment where alcoholic beverages may accompany an individual’s meal and where the total sales of food prepared on the premises will exceed the total sales of alcoholic beverages served. (Ord. 53 § 10-6 (part), 1978)

17.04.430 Right-of-way.

“Right-of-way” means a strip or parcel of land dedicated in fee or acquired for use as public way. (Ord. 53 § 10-6 (part), 1978)

17.04.435 Runway.

“Runway” means a defined area on an airport prepared for landing and takeoff of aircraft along its length. (Ord. 53 § 10-6 (part), 1978)

17.04.440 Screening and screened.

“Screening” and “screened” mean:

A. Any natural growth, wall, or fence, or combination thereof, not less than six feet high (except as otherwise specified in this title) which is sight-obscuring in that objects beyond said screen are indistinct to the sight or not visible. Fences and walls may be used as screening only in compliance with the fence regulations in Section 17.36.040.

B. An object, lot or portion thereof shall be considered screened when screening is provided and maintained between said object, lot or portion thereof (except reasonable entranceways) and all adjoining properties and streets except as otherwise specified in this title. (Ord. 90 § 1(C), 1979; Ord. 53 § 10-6 (part), 1978)

17.04.445 Service station (automobile).

“Service station (automobile)” means a building or portion thereof and land used for supplying fuel, oil and minor accessories for motor vehicles at retail direct to the customer and for making minor repairs. (Ord. 53 § 10-6 (part), 1978)

17.04.450 Setback.

“Setback” means the shortest distance between the lot line and the foundation wall or main frame of the building; an imaginary line establishing the minimum distance that structures may be located from lot lines and street rights-of-way. (Ord. 53 § 10-6 (part), 1978)

17.04.451 Silver Bow Creek.

“Silver Bow Creek” means the floodway and floodway fringe of Silver Bow Creek, including all primary and secondary channels. (Ord. 04-3 § 3, 2004)

17.04.452 Specified anatomical areas.

“Specified anatomical areas” is defined as:

A. Less than completely and opaquely covered:

1. Human genitals, pubic region;
2. Buttock; and
3. Female breast below a point immediately above the top of the areola; and

B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered. (Ord. 117 § 1(A) (part), 1980; Ord. 53 § 10-6 (part), 1978)

17.04.453 Specified sexual activities.

“Specified sexual activities” is defined as:

A. Human genitals in a state of sexual stimulation or arousal;

B. Acts of human masturbation, sexual intercourse or sodomy;

C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast. (Ord. 117 § 1(A) (part), 1980; Ord. 53 § 10-6 (part), 1978)

17.04.455 Stol primary surface.

“Stol primary surface” means an imaginary plane, three hundred feet wide, centered on the runway. Its

length extends one hundred feet beyond each runway end. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. (Ord. 53 § 10-6 (part), 1978)

17.04.460 Story.

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six feet above grade as defined herein for more than fifty percent of the total perimeter or is more than twelve feet above grade as defined herein at any point, such usable or unused under-floor shall be considered as a story. (Ord. 299 § 1(A) (part), 1987; Ord. 53 § 10-6 (part), 1978)

17.04.465 Story, half.

“Half story” means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story; provided, however, that any partial story used for residence purposes shall be deemed a full story. (Ord. 53 § 10-6 (part), 1978)

17.04.470 Street.

“Street” means a public right-of-way fifty feet or more in width which provides a public means of access to abutting property; it includes avenue, drive, circle, road, parkway, boulevard, lane, place, highway, thoroughfare, or any other similar term. (Ord. 53 § 10-6 (part), 1978)

17.04.475 Structural alteration.

“Structural alteration” means any change in the structural members of a building such as walls, columns, beams or girders. (Ord. 53 § 10-6 (part), 1978)

17.04.480 Structure.

“Structure” means anything constructed or erected with a fixed location on the ground, or attached to something on the ground. Among other things, structures include all buildings, mobile homes, walls, fences, signs, billboards, garages, carports, poster panels, and head-frames. Trees and other natural vegetation shall be considered to be structures for the purpose of height restrictions for airport zoning only. (Ord. 238 § 1(A)(10), 1985; Ord. 53 § 10-6 (part), 1978)

17.04.485 Substantial construction.

“Substantial construction” for new buildings shall be satisfied when all permanent concrete footings and foundations are in place. For existing buildings, “substantial construction” shall be satisfied where a minimum of ten percent of the entire construction has been completed in the opinion of the building inspector. (Ord. 53 § 10-6 (part), 1978)

17.04.486 Townhouse.

“Townhouse” means a single-family dwelling unit attached to one or more other single-family dwelling units, each being separated from the adjoining unit or units by an approved fire wall; provided that only one such dwelling is located on a lot of conforming size and each unit is supplied with individual utility service. (Ord. 340 § 1 (part), 1988)

17.04.490 Tourist home.

“Tourist home” means a building, or part thereof, other than a hotel, boardinghouse, lodginghouse or motel, where lodging is provided by a resident family in its home for compensation, mainly for transients. (Ord. 53 § 10-6 (part), 1978)

17.04.495 Use.

“Use” means a purpose for which either land or a building is or may be occupied or maintained, or for which a building is arranged, designed, or intended. (Ord. 53 § 10-6 (part), 1978)

17.04.500 Utility runway.

“Utility runway” means a runway that is constructed for and intended to be used by propeller-driven aircraft of twelve thousand five hundred pounds maximum gross weight and less. (Ord. 53 § 10-6 (part), 1978)

17.04.505 Variance.

“Variance” means a relaxation of specific provisions of this title when a literal enforcement of this title would result in unnecessary hardship, due to geophysical conditions. (Ord. 53 § 10-6 (part), 1978)

17.04.509 Visual buffer.

“Visual buffers” may consist of plantings, walls, fences or combinations thereof, and shall provide at least fifty percent effective screening at the time of planting. Where walls are constructed as buffers, living vegetation shall be required in order to create visual relief, covering a minimum of thirty percent of the wall area at the time of planting. (Ord. 100 § 1 (part), 1980; Ord. 53 § 10-6 (part), 1978)

17.04.510 Visual runway.

“Visual runway” means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, a military service’s approved military airport layout plan, or by any planning document submitted to the FAA by competent authority. (Ord. 53 § 10-6 (part), 1978)

17.04.512 Water channel management zone.

“Water channel management zone” means a corridor that includes the floodway, floodway fringe and extending to one hundred feet from the outer boundary of the floodway fringe along the Big Hole River and Silver Bow Creek. (Ord. 04-3 § 4, 2004)

17.04.515 Yard.

“Yard” means an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title. (Ord. 53 § 10-6 (part), 1978)

17.04.520 Yard, front.

“Front yard” means a yard extending between side lot lines across the front of the lot adjoining a public street, and shall be provided as follows:

A. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through street is not in keeping with the prevailing yard pattern, the enforcing officer may waive the requirement for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

B. In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the zone shall be provided on the other frontage.

C. In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage and a second yard of half the depth required generally for front yards in the zone shall be provided on the other frontage.

D. In the case of corner lots with more than two frontages, the enforcing officer shall determine the front yard requirements subject to the following limitations:

1. At least one front yard shall be provided having the full depth required generally in the district.

2. No other front yard on such lot shall have less than half the full depth required generally. (See also Sections 17.46.020 through 17.46.110). (Ord. 53 § 10-6 (part), 1978)

17.04.525 Yard, rear.

“Rear yard” means a yard extending across the full width of the lot between the most rear main building and the rear lot line. The depth of the required rear yard shall be measured horizontally from the nearest point of the rear lot line toward the nearest part of a main building. (Ord. 53 § 10-6 (part), 1978)

17.04.530 Yard, side.

“Side yard” means a yard between a main building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of a main building. (Ord. 53 § 10-6 (part), 1978)

17.04.535 Yard, special.

“Special yard” means a yard behind any required yard adjacent to a public street required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term “side yard” nor the term “rear yard” clearly applies. In such cases, the enforcing officer shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable area thereon. (Ord. 53 § 10-6 (part), 1978)

17.04.540 Zone.

“Zone” means a section of Butte-Silver Bow, state of Montana, in which regulations governing the area, height, and use of the land and buildings are the same. (Ord. 53 § 10-6 (part), 1978)

Chapter 17.06

DISTRICTS, BOUNDARIES AND MAP

Sections:

- 17.06.010 Zoning commission—Created—Duties.**
- 17.06.020 Districts established.**
- 17.06.030 Zoning map adopted.**
- 17.06.040 Determination of boundaries.**

17.06.010 Zoning commission—Created—Duties.

There is created a zoning commission which shall consist of nine members of the planning board to be appointed by the chief executive and confirmed by the council of commissioners. The prime duties of the zoning commission shall be to recommend the boundaries of the various original zoning districts and amendments thereof, and appropriate regulations to be enforced therein to the council of commissioners, among other duties. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and such council of commissioners shall not hold its public hearings or take action until it has received the final report of the zoning commission. The planning board shall be responsible for drafting the operating rules and regulations concerning the zoning commission functions. (Ord. 53 § 20-1, 1978)

17.06.020 Districts established.

For the purpose of this title, Butte-Silver Bow, state of Montana, is divided into the following zoning districts:

- R1-S one-family suburban residence zone
- R-1 one-family residence zone
- R-2 two-family residence zone
- R-3 multi-family residence zone
- R-4 mobile home zone
- R4-S mobile home suburban zone
- R-C rural center zone
- C-1 local commercial zone
- C-2 community commercial zone
- C-3 central commercial zone
- C-M commercial and light industrial zone
- M-1 light industrial zone
- M-2 Heavy industrial zone
- RM-2 rural industrial zone
- E-1 public college zone
- H historic overlay zone
- Airport zone.

(Ord. 409 § 4, 1991; Ord. 238 § 1(B) (part), 1985; Ord. 214 § 1(A), 1984; Ord. 53 § 20-2, 1978)

17.06.030 Zoning map adopted.

Boundaries of the districts mentioned in Section 17.06.020 are established and shown on the zoning maps of the above said districts and said zoning maps are made a part of the ordinance codified in this title by this reference. (Ord. 53 § 20-3, 1978)

17.06.040 Determination of boundaries.

The exact zoning district boundary lines shall be determined by the zoning commission, except where shown on said maps to established street or alley centerlines or right-of-way lines, to recorded lot or property lines, to section lines or portions thereof, or by dimensions. (Ord. 53 § 20-4, 1978)

Chapter 17.08

**R1-S ONE-FAMILY SUBURBAN
RESIDENCE ZONE**

Sections:

17.08.010	Primary intended
use.	
17.08.020	Permitted uses.
17.08.030	Conditional uses.
17.08.040	Building height
limits.	
17.08.050	Minimum lot
area.	
17.08.060	Minimum lot
width.	
17.08.070	Minimum front
yard depth.	
17.08.080	Minimum side
yard width.	
17.08.090	Minimum rear
yard depth.	

17.08.010 Primary intended use.

The R1-S zone is intended primarily to provide for the transition of large, sparsely settled areas from rural or agricultural characteristics to urban one-family residence use, and to provide protecting residential development. To achieve this intent, the regulations of this chapter, and the supplementary regulations in Chapter 17.38 of this title shall apply in the R1-S zone. (Ord. 53 § 30-1, 1978)

17.08.020 Permitted uses.

Hereafter in the R1-S zone, no building or structure shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any other than the following unless otherwise provided in this title:

A. Dwelling:

1. Single-family;
2. Manufactured homes:
 - a. Class A,
 - b. Class B,
 - c. Modular;

B. Farming, gardening, fruitgrowing, nurseries, including the sale of products raised on the premises;

C. Keeping of livestock, fowls, rabbits, and/or bees primarily for personal noncommercial use shall be allowed on any lot, provided that the lot is occupied by a residence and has a lot area not less than the minimum lot area of Section 17.08.050. The maintenance of fish hatcheries, kennels, and small animal farms as defined in this title shall be allowed on any lot, provided that the lot is occupied by a residence and has a lot area not less than the minimum lot area of Section 17.08.050. The keeping of swine and the killing and dressing of livestock is prohibited except for personal noncommercial use. Nothing in this section shall be interpreted as permitting the manufacturing of food products for commercial purposes;

D. Accessory uses ordinarily appurtenant to any permitted use, including barns, coops, and similar structures provided for the enclosures of animals or fowls shall be located not less than forty feet from any portion of any adjoining lot, with or without an intervening alley, which may be occupied by a residence.

Accessory structures, including private garages, shall conform to the setback requirements of Sections 17.08.070 through 17.08.090;

E. Day care homes, family or group;

F. Other uses permitted under the supplementary use regulations in Sections 17.38.170 through 17.38.240. (Ord. 00-9 § 1 (part), 2000; Ord. 437 § 7, 1992; Ord. 358 § 1 (part), 1989; Ord. 201 § 1(C), 1983; Ord. 53 § 30-2, 1978)

17.08.030 Conditional uses.

A. Manufactured Homes Class C as to the provisions of Chapter 17.37.

B. Commercial greenhouses may be allowed by a conditional use permit from the zoning commission; provided, that the commission finds such use will not be unduly detrimental to surrounding properties and will not impede any substantial trend to residential development in the area.

C. Removal and dumping of sod, soil, rock, oil, minerals, or similar material for the purpose of sale, fill, building, or other construction usage off the premises from which removed may be allowed by a conditional use permit from the zoning commission; provided, that after public hearing the commission finds the removal and the operation connected therewith will neither be unduly detrimental to surrounding properties because of dust, smoke, noise, hazard, or similar objectionable factor, nor will jeopardize the probable potential use of the site. The permit shall be temporary, conditional, and revocable. Conditions shall be required by the commission as it may deem necessary to eliminate any hazard and any detriment to the site or surrounding properties and zone, and to restore the land so that development of the highest potential use as indicated by this title for the site and surrounding properties and zone will not be impaired. The conditions may include, but shall not be limited to, a performance bond, the confinement of operations to weekdays, and an agreement to rehabilitate the excavation by refilling, recontouring, replacement of subsoil and topsoil, and planting of protective ground cover in order to assure the elimination of such hazard

and detriment. (Ord. 437 § 8, 1992; Ord. 53 § 30-3, 1978)

17.08.040 Building height limits.

No building shall exceed two and one-half stories nor thirty-five feet in height, except schools, churches, and structures which are part of any use that this title allows by a conditional or special use permit from the zoning commission. (Ord. 53 § 30-4, 1978)

17.08.050 Minimum lot area.

Minimum lot area shall be as follows:

A. Dwellings, one acre; and as applicable under Chapter 17.38;

B. Other permitted uses, one acre. (Ord. 53 § 30-5, 1978)

17.08.060 Minimum lot width.

Minimum lot width shall be one hundred fifty feet. (Ord. 53 § 30-6, 1978)

17.08.070 Minimum front yard depth.

Minimum front yard depth shall be twenty-five feet. When fronting on the right-of-way of a major thoroughfare shown on the official major thoroughfare plan, the front yard shall be measured from the proposed right-of-way line. (Ord. 53 § 30-7, 1978)

17.08.080 Minimum side yard width.

Minimum side yard width shall be fifteen feet, each side, unless abutting on a side street, in which case the side yard width shall be at least twenty feet including accessory structures. (Ord. 53 § 30-8, 1978)

17.08.090 Minimum rear yard depth.

Minimum rear yard depth shall be as follows:

A. Thirty-five feet for a dwelling;

B. Other buildings, twenty feet. (Ord. 53 § 30-9, 1978)

Chapter 17.10

R-1 ONE-FAMILY RESIDENCE ZONE

Sections:

17.10.010	Primary intended use.
17.10.020	Permitted uses.
17.10.030	Conditional uses.
17.10.040	Building height limits.
17.10.050	Minimum lot area.
17.10.060	Minimum lot width.
17.10.070	Minimum front yard depth.
17.10.080	Minimum side yard width.
17.10.090	Minimum rear yard depth.
17.10.100	Maximum lot coverage.

17.10.010 Primary intended use.

The R-1 zone is intended primarily for the use and protection of one-family residences. To achieve this intent, the regulations in this chapter and the supplementary regulations in Chapter 17.38 shall apply in the R-1 zone. (Ord. 53 § 40, 1978)

17.10.020 Permitted uses.

Hereinafter in the R-1 zone, no building or structure shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any other than the following unless otherwise provided in this title:

- A. Dwellings:
 - 1. Single-family;
 - 2. Manufactured homes:
 - a. Class A,
 - b. Modular;

B. Rooms or room and board for not more than two adult persons may be provided by a resident proprietor;

C. Gardening, fruitgrowing, greenhouses of not more than one hundred and twenty square feet, not more than ten feet in height, and nurseries, excluding: the sale of products raised on the premises, retail stands, signs, and other commercial structures. Domestic pets, excluding livestock and bees, may be kept for noncommercial purposes; provided, that the maintenance of kennels and the keeping of rabbits or other similar small animals in excess of three of the same genus or sort shall be prohibited;

D. Accessory uses ordinarily appurtenant to permitted uses, including home occupations as defined herein, private swimming pools, and one detached private garage for each dwelling unit. Detached accessory structures, including private garages, shall not be located in the front yard not less than ten feet from any adjoining side street, except detached accessory structures located in the rear yard may extend to within three feet of the rear property line when abutting an alleyway or within five feet of the rear property line when an alley does not exist. Attached garages, carports, covered patios, and similar attached accessory buildings may occupy the rear yard to within ten feet of the rear property line and to within five feet of the inside property lines. In all cases there shall be a minimum off-street parking apron of twenty feet in length directly in front of all garage door entrances when accessing a street either to the front or side of a residence. Where garage doors access an alley, the off-street parking apron shall be at least ten feet; accessory structures shall not contain any habitable space or room;

E. Day care homes, family or group;

F. Personal noncommercial livestock in floodplain areas;

G. Other uses permitted under the supplementary use regulations in Chapter 17.38. (Ord. 00-9 § 1 (part), 2000; Ord. 437 § 9, 1992; Ord. 358 § 1 (part), 1989; Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 201 § 1(b), 1983; Ord. 155 § 1(a), (b), 1982; Ord. 122 § 1(3), 1980; Ord. 99 § 1 (part), 1980; Ord. 53 § 40-2, 1978)

17.10.030 Conditional uses.

Conditional uses shall be as follows:

A. Manufactured Homes Class B as to the provisions of Chapter 17.37.

B. Temporary uses, including business offices and signs, incidental to the development of the surrounding residential area may be allowed by a conditional use permit from the board of adjustment after examination of the location and upon due proof to the satisfaction of the board that such use will not be unduly detrimental to surrounding properties. Such uses shall comply with the front and side yard regulations. No sign shall exceed one hundred fifty square feet in area. Permits for such uses shall be temporary, conditional, and revocable, and shall be issued for a period not exceeding two years. Continuation of such uses beyond the two-year limit shall require a new permit to be issued on its own merit and in the same manner as required in the case of a new application;

C. Home occupations;

D. Keeping of fowl and similar animals. (Ord. 00-9 § 1 (part), 2000; Ord. 534 § 1, 1996; Ord. 437 § 10, 1992; Ord. 135 § 1(a), 1981; Ord. 99 § 1 (part), 1980; Ord. 53 § 40-3, 1978)

17.10.040 Building height limits.

Building height limits shall be two and one-half stories, but not exceeding thirty-five feet in height, and no accessory structure shall exceed one story or the following height limits:

Hip or gable roof 16 feet maximum

Gambrel roof 14 feet maximum

Flat roof 13 feet maximum

(Ord. 122 § 1(4), 1980; Ord. 53 § 40-4, 1978)

17.10.050 Minimum lot area.

Minimum lot area for single-family dwellings shall be six thousand square feet, and as applicable under Chapter 17.38. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 40-5, 1978)

17.10.060 Minimum lot width.

Minimum lot width for single-family dwellings shall be sixty feet. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 40-6, 1978)

17.10.070 Minimum front yard depth.

Minimum front yard depth shall be twenty feet. When fronting on the right-of-way of a major thoroughfare shown on the official major street system and committed improvements plan, the front yard shall be measured from the proposed right-of-way line. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 40-7, 1978)

17.10.080 Minimum side yard width.

One-story dwellings shall have a minimum of a five-foot side yard; a two-story dwelling shall have a minimum of an eight-foot side yard; and each additional story over two shall have an additional four feet, for each story, added to the required side yard.

However, any side yard abutting a street shall have a minimum setback of ten feet including accessory structures. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 40-8, 1978)

17.10.090 Minimum rear yard depth.

Minimum rear yard depth for single-family dwellings shall be ten feet, and thirty-five feet for other principal buildings. There shall be a minimum fifteen-foot rear yard setback for two or more stories on dwellings. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 40-9, 1978)

17.10.100 Maximum lot coverage.

The maximum structure coverage of the lot shall not exceed thirty-five percent. (Ord. 53 § 40-10, 1978)

Chapter 17.12

R-2 TWO-FAMILY RESIDENCE ZONE

Sections:

17.12.010	Primary intended use.
17.12.020	Permitted uses.
17.12.030	Conditional uses.
17.12.040	Building height limits.
17.12.050	Minimum lot area.
17.12.060	Minimum lot width.
17.12.070	Minimum front yard depth.
17.12.080	Minimum side yard width.
17.12.090	Minimum rear yard depth.
17.12.100	Maximum lot coverage.

17.12.010 Primary intended use.

The R-2 zone is intended primarily to accommodate two-family residences in specified low-density residential areas. It is also intended that the R-2 zone should be used to further encourage improvements in the areas of Butte-Silver Bow, state of Montana, which manifest a building trend toward two-family residences and/or unduly slow and sparse development of one-family residences. To achieve this intent, the regulations in this chapter and the supplementary regulations in Chapter 17.38 shall apply in the R-2 zone. (Ord. 53 § 50-1, 1978)

17.12.020 Permitted uses.

Hereafter in the R-2 zone, no building or structure shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any use other than the following unless otherwise provided in this title:

A. Dwellings:

1. Single-family;
2. Two family;
3. Manufactured homes:

a. Class A,

b. Modular;

B. Conversions as permitted under Section 17.38.110;

C. Accessory uses ordinarily appurtenant to permitted uses, including one detached private garage for each dwelling unit. Detached accessory structures, including private garages, shall not be located in the front yard nor less than ten feet from any adjoining side street, except detached accessory structures located in the rear yard may extend to within three feet of the rear property line when abutting an alleyway or within five feet of an inside property line when an alley does not exist. Private garages attached to or within the residence shall adhere to the setback requirement of the residence. In all cases, there shall be a minimum off-street parking apron of twenty feet in length directly in front of all garage door entrances when accessing a street either to the front or side of a residence. Where garage doors access an alley, the off-street parking apron shall be at least ten feet; accessory structures shall not contain any habitable space or room;

D. Day care homes, family or group;

E. Other uses permitted under the supplementary use regulations in Section 17.38.170 through 17.38.240. (Ord. 00-9 § 1 (part), 2000; Ord. 437 § 11, 1992; Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 155 § 1(d), 1982; Ord. 53 § 50-2, 1978)

17.12.030 Conditional uses.

Conditional uses shall be as follows:

A. Manufactured Homes Class B as to the provisions of Chapter 17.37;

B. Home occupations. (Ord. 00-9 § 1 (part), 2000; Ord. 437 § 12, 1992; Ord. 53 § 50-3, 1978)

17.12.040 Building height limits.

Building height limits shall be the same as permitted in the R-1 zone, Section 17.10.040. (Ord. 53 § 50-4, 1978)

17.12.050 Minimum lot area.

Minimum lot area shall be as follows:

A. Single-family dwellings, six thousand square feet; and as applicable under Chapter 17.38;

B. Two-family dwellings, seven thousand five hundred square feet; and as applicable under Chapter 17.38. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 50-5, 1978)

17.12.060 Minimum lot width.

Minimum lot width shall be as follows:

A. Single-family dwelling, sixty feet;

B. Two-family dwelling, seventy-five feet. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 50-6, 1978)

17.12.070 Minimum front yard depth.

Minimum front yard depth shall be twenty feet. When fronting on the right-of-way of a major thoroughfare shown on the official major street system and committed improvements plan, the front yard shall be measured from the proposed right-of-way. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 50-7, 1978)

17.12.080 Minimum side yard width.

One-story dwellings shall have a minimum of a five foot side yard; a two-story dwelling shall have a minimum of an eight-foot side yard; and each additional story over two shall have an additional four feet, for each story, added to the required side yard.

However, any side yard abutting a street shall have a minimum setback of ten feet including accessory structures. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 50-8, 1978)

17.12.090 Minimum rear yard depth.

Minimum rear yard depth for one-family and two-family dwellings shall be ten feet, and thirty-five feet for other principal buildings. There shall be a minimum fifteen-foot rear yard setback for two or more stories on dwellings. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 50-9, 1978)

17.12.100 Maximum lot coverage.

The maximum structure coverage of the lot shall not exceed thirty-five percent. (Ord. 53 § 50-10, 1978)

Chapter 17.14

R-3 MULTI-FAMILY RESIDENCE ZONE

Sections:

17.14.010	Primary intended
use.	
17.14.020	Permitted uses.
17.14.030	Conditional uses.
17.14.040	Building height
limits.	
17.14.050	Minimum lot
area.	
17.14.060	Minimum lot
width.	
17.14.070	Minimum front
yard depth.	
17.14.080	Minimum side
yard width.	
17.14.090	Minimum rear
yard depth.	

17.14.010 Primary intended use.

The R-3 zone is intended primarily to accommodate multi-family residences. The zone may be used to provide for apartment developments in residential areas, to encourage developments of lots on which single-family residences would be impractical because of terrain, rock, or similar condition, to permit a greater number of persons to reside near secondary focal points of Butte-Silver Bow, state of Montana, such as outlying business or industrial employment centers, or to establish a buffer between the one-family residence areas and the less restrictive nonresidential zones. To achieve this intent, the regulations in this chapter and the supplementary regulations in Chapter 17.38 shall apply in the R-3 zone. (Ord. 53 § 60-1, 1978)

17.14.020 Permitted uses.

Hereafter in the R-3 zone, no building or structure shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any use other than the following unless otherwise provided in this title:

- A. Dwellings:
 - 1. Single-family;
 - 2. Two family;
 - 3. Multi-family;
 - 4. Manufactured homes.
 - a. Class A,
 - b. Modular.
- B. Any nonresidential use permitted in the R-1 and R-2 zones;
- C. Room or room and board and boarding homes for not more than eight persons provided by a resident proprietor;
- D. Accessory uses ordinarily appurtenant to permitted uses. Accessory structures, including detached private garages, shall not be located within the front yard, nor less than ten feet from any adjoining side street. Accessory structures may extend to within three feet of the rear and inside property lines when an alleyway exists along the rear of the property or to within five feet of the rear and inside property lines when an alley does not exist. Private garages attached to or within the residence shall adhere to the setback

requirement of the residence. In all cases, there shall be a minimum off-street parking apron of twenty feet in length directly in front of all garage door entrances when accessing a street either to the front or side of a residence. Where garage doors access an alley, the off-street parking apron shall be at least ten feet, except, that private garages accessory to multifamily residences shall be designed and constructed in harmony with the general appearance of the main building and shall not be operated as a public repair garage except that services may be rendered for tenants when limited to car washing, polishing, lubrication, refueling, tire repairing, and minor adjustments when performed entirely within an enclosed garage building. All garages two or more stories in height shall be enclosed structures;

E. Day care homes, family or group;

F. Other uses permitted under the supplementary use regulations in Sections 17.38.170 through 17.38.240. (Ord. 00-9 § 1 (part), 2000; Ord. 437 § 13, 1992; Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 155 § 1(f), 1982; Ord. 53 § 60-2, 1978)

17.14.030 Conditional uses.

Conditional uses shall be as follows:

A. Manufactured Homes Class B as to the provisions of Chapter 17.37;

B. Medical, dental offices and clinics, and offices for the practice of healing sciences licensed by the state of Montana may be allowed by a conditional use permit from the board of adjustment after public hearing and a finding that such use will not be unduly detrimental to surrounding properties; and, provided, that no more than nine persons shall practice or be employed therein, or which no more than three may be doctors (including dentists);

C. Hotels, motels, private clubs and lodges may be allowed by a conditional use permit from the board of adjustment after public hearing and examination of the plans and location thereof, and after a finding that such use and proposed development will not be unduly detrimental to surrounding properties or to the zone in which it may be located. Accessory business uses such as barber, newsstand, garment repair and pressing, or

gift shop may be allowed therewith for the purpose of serving the tenants or members thereof; provided, that no display of merchandise, signs, or other advertising matter shall be visible from outside the building, and all customer entrances to such businesses shall be from within the lobby, hallway, or other interior portion of the building;

D. Home occupations. (Ord. 00-9 § 1 (part), 2000; Ord. 437 § 14, 1992; Ord. 135 § 1(b), (c), 1981; Ord. 53 § 60-3, 1978)

17.14.040 Building height limits.

Building height limits shall be as follows:

- A. For any building containing multi-dwelling units, seven stories but not exceeding eighty feet;
- B. For all other buildings, same as R-1 zone. (Ord. 53 § 60-4, 1978)

17.14.050 Minimum lot area.

Minimum lot area shall be as follows:

- A. Single-family dwellings, six thousand square feet; and as applicable under Chapter 17.38;
- B. Two-family dwellings, seven thousand five hundred square feet; and as applicable under Chapter 17.38;
- C. Multifamily dwellings, lot area requirements per dwelling unit shall be as follows, and as applicable under Chapter 17.38:

Square Feet per	
Dwelling Unit	Dwelling Unit

2-8	1500
9 plus	400 additional sq. ft./unit

There shall be six thousand square feet of land in addition to the above formula. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 60-5, 1978)

17.14.060 Minimum lot width.

Minimum lot width shall be as follows:

- A. Single-family dwellings, sixty feet;
- B. Two-family dwellings, seventy-five feet;
- C. Multifamily dwelling, eighty feet. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 60-6, 1978)

17.14.070 Minimum front yard depth.

Minimum front yard depth shall be as follows:

- A. Single-family dwelling, twenty feet;
- B. Two-family dwelling, twenty feet;
- C. Multifamily dwelling, twenty-five feet.

When fronting on the right-of-way of a major thoroughfare shown on the official major street system and committed improvements plan, the front yard shall be measured from the proposed right-of-way line. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 60-7, 1978)

17.14.080 Minimum side yard width.

Minimum side yard width shall be as follows:

- A. One-story dwellings shall have a minimum of a five foot side yard; a two-story dwelling shall have a minimum of an eight foot side yard; and each additional story over two shall have an additional four feet, for each story, added to the required side yard.

However, any side yard abutting a street shall have a minimum setback of ten feet including accessory structures;

- B. Two-family dwellings, ten feet on each side;
- C. Multifamily dwellings, ten feet on each side; and

- D. For the purpose only of locating a building exceeding two stories in height on a lot, the required minimum width of each side yard shall be increased by four feet for each additional story over two. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 155 § 1(g), 1982; Ord. 53 § 60-8, 1978)

17.14.090 Minimum rear yard depth.

Minimum rear yard depth shall be ten feet for one and two-family dwellings and fifteen feet for apartment buildings; other principal buildings shall have a rear yard setback of thirty-five feet. Also, for the purpose of locating a building two stories or more in height on a lot, the required minimum depth of the rear yard shall be increased by four feet per story. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 60-9, 1978)

Chapter 17.16

R-4 MOBILE HOME ZONE

Sections:

17.16.010	Primary intended use.
17.16.020	Permitted uses.
17.16.030	Conditional uses.
17.16.040	Building height limits.
17.16.050	Minimum lot area.
17.16.060	Minimum lot width.
17.16.070	Minimum front yard depth.
17.16.080	Minimum side yard width.
17.16.090	Minimum rear yard depth.

17.16.010 Primary intended use.

It is the intent of this chapter to establish a mobile home residence special zone where mobile homes may be placed without change in the character of the neighborhood. (Ord. 53 § 70-1, 1978)

17.16.020 Permitted uses.

Hereafter in the R-4 zone, no building or structure shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any use other than the following unless otherwise provided in this title:

A. Dwellings:

1. Single-family;
2. Manufactured homes:
 - a. Class A,
 - b. Class B,
 - c. Class C,
 - d. Modular;

B. Mobile homes located on individual lots subject to the provisions of Chapter 17.36;

C. Mobile home parks;

D. Accessory uses ordinarily appurtenant to permitted uses. Accessory structures including detached private garages, shall not be located in the required front yard setback, nor less than ten feet from any adjoining street. Accessory structures may extend to within three feet of the rear or side lot property lines when an alley exists along the rear or side lot property lines when an alley exists along the rear property or to within five feet of the rear or inside property lines when an alley does not exist. In all cases, a minimum off-street parking apron of twenty feet in length directly in front of all garage door entrances shall be provided when accessing a street either to the front or side of a residence. Where garage doors access an alley, the off-street parking apron shall be at least ten feet. Attached garages shall maintain the setback requirements for the residences;

E. Day care homes, family or group;

F. Other uses permitted under the supplementary use regulations in Chapter 17.38. (Ord. 00-9 § 1 (part), 2000; Ord. 437 § 15, 1992; Ord. 358 § 1 (part), 1989; Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 201 § 1(D), 1983; Ord. 155 § 1(h), 1982; Ord. 103 § 1 (part), 1980; Ord. 53 § 70-2, 1978)

17.16.030 Conditional uses.

Conditional uses shall be as follows:

A. Hotels, motels, private clubs and lodges may be allowed by a conditional use permit from the board of adjustment after public hearing and examination of the plans and location thereof, and after a finding that such use and proposed development will not be unduly detrimental to surrounding properties or to the zone in which it may be located. Accessory business uses such as barber, newsstand, garment repair and pressing, or gift shop may be allowed therewith for the purpose of serving the tenants or members thereof; provided, that no display of merchandise, signs, or other advertising matter shall be visible from outside the building, and all customer entrances to such businesses shall be from within the lobby, hallway, or other interior portion of the building;

B. Medical and dental offices, clinics and laboratories; and offices for the practice of optometry and healing sciences licensed by the state of Montana may be allowed by conditional use permit from the zoning board of adjustment after public hearing and a finding that such use will not be unduly detrimental to surrounding properties; and, provided, that no more than nine persons shall practice or be employed therein, of which no more than three may be doctors (including dentists). Clinics may include a prescription pharmacy or optical dispensary; provided, that there is no separate outside entrance. No use shall have outside display;

C. Any nonresidential use not listed in this section and permitted conditionally in the R-3 zone shall be permitted subject to the same conditions;

D. Home occupations. (Ord. 00-9 § 1 (part), 2000; Ord. 135 § 1(d), (e), 1981; Ord. 53 § 70-3, 1978)

17.16.040 Building height limits.

Building height limits shall be the same as permitted in the R-1 zone, Section 17.10.040. (Ord. 53 § 70-4, 1978)

17.16.050 Minimum lot area.

Minimum lot area for single-family dwellings shall be six thousand square feet and as applicable under Chapter 17.38. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 70-5, 1978)

17.16.060 Minimum lot width.

Minimum lot width for single-family dwellings shall be sixty feet. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 70-6, 1978)

17.16.070 Minimum front yard depth.

Minimum front yard depth shall be twenty feet. When fronting on the right-of-way of a major thoroughfare shown on the official major street system and committed improvements plan, the front yard shall be measured from the proposed right-of-way line. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 50 § 70-7, 1978)

17.16.080 Minimum side yard width.

One-story dwellings shall have a minimum of a five foot side yard; a two-story dwelling shall have a minimum of an eight foot side yard; and each additional story over two shall have an additional four feet, for each story, added to the required side yard.

However, any side yard abutting a street shall have a minimum setback of ten feet including accessory structures. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 70-8, 1978)

17.16.090 Minimum rear yard depth.

Each lot shall have a rear yard of ten feet for dwellings and thirty-five feet for other principal buildings such as church, library, etc. There shall be a minimum fifteen-foot rear yard setback for two or more stories on dwellings. (Ord. 312 § 1 (part), 1987; Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 70-9, 1978)

Chapter 17.18

R4-S MOBILE HOME SUBURBAN ZONE

Sections:

17.18.010 use.	Primary intended
17.18.020	Permitted uses.
17.18.030	Conditional uses.
17.18.040 limits.	Building height
17.18.050 area.	Minimum lot
17.18.060 width.	Minimum lot
17.18.070 yard depth.	Minimum front
17.18.080 yard width.	Minimum side
17.18.090 yard depth.	Minimum rear

17.18.010 Primary intended use.

The R4-S zone is intended primarily to provide for the transition of large, sparsely settled areas from rural or agricultural characteristics to urban one-family residence where mobile homes are permitted and to provide certain areas wherein a partial agricultural atmosphere is retained. It is intended that these aims should be accomplished by permitting farming under specified conditions protecting residential development. To achieve this intent, the regulations in this chapter and the supplementary regulations in Chapter 17.38 shall apply in the R4-S zone. (Ord. 53 § 80-1, 1978)

17.18.020 Permitted uses.

Hereafter in the R4-S zone, no building or structure shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any other than the following unless otherwise provided in this title:

- A. Dwellings:
 - 1. Single-family;

- 2. Manufactured Homes:

- a. Class A,
- b. Class B,
- c. Class C,
- d. Modular;

B. Mobile homes located on individual lots subject to the provisions of Chapter 17.36;

C. Farming, gardening, fruitgrowing, nurseries, including the sale of products raised on the premises;

D. Keeping of livestock, fowl, rabbits and/or bees primarily for personal, noncommercial use and the maintenance of fish hatcheries, kennels and small farm animals shall be allowed on any lot provided that that lot is occupied by a residence and has a lot area not less than the minimum lot area required in Section 17.18.050. The keeping of swine and the slaughtering and dressing of livestock is prohibited except for personal, noncommercial use. Nothing herein shall be interpreted as permitting the manufacturing of food products for commercial use;

E. Accessory uses ordinarily appurtenant to any permitted use, including one detached private garage for each dwelling unit, barns, coops, sheds and similar structures provided that no enclosure for animals or fowl shall be located closer than forty feet from any lot line;

F. Other uses permitted under the supplementary use regulations in Chapter 17.38;

G. Day care homes, family or group. (Ord. 00-9 § 1 (part), 2000; Ord. 437 § 16, 1992; Ord. 358 § 1 (part), 1989; Ord. 201 § 1(F), 1983; Ord. 103 § 1 (part), 1980; Ord. 53 § 80-2, 1978)

17.18.030 Conditional uses.

Conditional uses shall be as follows:

A. Commercial greenhouses may be allowed by a conditional use permit from the board of adjustment; provided, that the board finds such use will not be unduly detrimental to surrounding properties and will not impede any substantial trend to residential development in the area.

B. Removal and dumping of sod, soil, rock, oil, minerals, or similar material for the purpose of sale, fill, building, or other construction usage off the prem-

ises from which removed may be allowed by a conditional use permit from the board of adjustment; provided, that after public hearing the board finds the removal and the operation connected therewith will neither be unduly detrimental to surrounding properties because of dust, smoke, noise, hazard, or similar objectionable factor, nor will jeopardize the probable potential use of the site causing it to remain undeveloped for considerable time. The permit shall be temporary, conditional, and revocable. Conditions shall be required by the board as it may deem necessary to eliminate any hazard and any detriment to the site or surrounding properties and zone, and to restore the land so that development of the highest potential uses as indicated by this title for the site and surrounding properties and zone will not be impaired. The conditions may include a performance bond, the confinement of operations to weekdays, and an agreement to rehabilitate the excavation by refilling, recontouring, replacement of subsoil and topsoil, and planting of protective ground cover in order to assure the elimination of such hazard and detriment. (Ord. 135 § 1(f)—(j), 1981; Ord. 53 § 80-3, 1978)

17.18.040 Building height limits.

No building shall exceed two and one-half stories nor thirty-five feet in height, except schools, churches, and structures which are part of any use that this title allows by a conditional use permit from the board of adjustment. (Ord. 135 § 1(k), 1981; Ord. 53 § 80-4, 1978)

17.18.050 Minimum lot area.

- Minimum lot area shall be as follows:
- A. Dwellings, one acre; and as applicable under Chapter 17.38;
 - B. Other permitted uses, one acre. (Ord. 53 § 80-5, 1978)

17.18.060 Minimum lot width.

Minimum lot width shall be one hundred fifty feet. (Ord. 53 § 80-6, 1978)

17.18.070 Minimum front yard depth.

Minimum front yard depth shall be twenty-five feet. When fronting on the right-of-way of a major thoroughfare shown on the official major thoroughfare plan, the front yard shall be measured from the proposed right-of-way line. (Ord. 53 § 80-7, 1978)

17.18.080 Minimum side yard width.

Minimum side yard width shall be fifteen feet on each side, unless abutting on a side street in which case the side yard width shall be at least twenty feet including accessory structures. (Ord. 53 § 80-8, 1978)

17.18.090 Minimum rear yard depth.

- Minimum rear yard depth shall be as follows:
- A. Thirty-five feet for a dwelling;
 - B. Other buildings, twenty feet. (Ord. 53 § 80-9, 1978)

Chapter 17.20

R-C RURAL CENTER ZONE

Sections:

17.20.010	Primary intended
use.	
17.20.020	Permitted uses.
17.20.030	Required
standards.	
17.20.040	Conditional uses.

17.20.010 Primary intended use.

The intent of this zone is to provide areas for general rural community uses and to encourage compact community development. This zone is intended to be used by rural communities where the population is less than five hundred. Areas of greater population should consider individual commercial, industrial, and residential zones. (Ord. 53 § 90-1, 1978)

17.20.020 Permitted uses.

Hereafter in the R-C zone, no building or structure shall be erected, altered, enlarged or relocated therein which is designed or intended to be used for any other than the following uses unless otherwise provided in this title:

- A. Public or private schools;
- B. Libraries;
- C. Churches;
- D. Dwellings:
 - 1. Single-family;
 - 2. Two family;
 - 3. Multi-family;
 - 4. Manufactured homes:
 - a. Class A,
 - b. Class B,
 - c. Class C,
 - d. Modular, etc;
- E. Mobilehomes located on individual lots subject to the provisions of Chapter 17.36;
- F. Playgrounds, parks, or community centers;
- G. Publicly owned buildings;
- H. Post office;
- I. Retail commercial;
- J. Offices and professional services;
- K. Motels, restaurants and taverns. (Ord. 437 § 17, 1992; Ord. 358 § 1 (part), 1989; Ord. 201 § 1(G), 1983; Ord. 53 § 90-2, 1978)

17.20.030 Required standards.

Permitted uses must conform to the following requirements:

- A. Residential Uses.

1. Setbacks. Residential and accessory structures shall be set back a minimum of twenty-five feet from the front lot line, five feet or one-third of the building height, whichever is greater, from a side lot line, and ten feet from the rear lot line.

2. Off-street Parking. Every residential lot shall provide at least one off-street parking space for each dwelling unit within the lot boundaries.

3. Signs. One sign not larger than four square feet in size is allowed on the lot. Neon, buzzing, whistling or flashing signs are not permitted.

B. Commercial Uses.

1. Setbacks. Commercial buildings, structures, and storage yards shall be set back at least thirty feet from any street, eight feet from any side property line, and ten feet from the rear property line.

2. Off-street Parking. Two off-street parking spaces shall be provided for each three employees, plus either one space per five maximum customer units of capacity, such as seating, hospital beds or one space for each four hundred square feet of gross floor space.

3. Loading Areas. Loading areas shall be provided which allow commercial and service trucks to safely maneuver, load and unload. Loading areas shall be located to separate service traffic from customer traffic. Appropriate loading or service ramps shall be provided and service doors designed to accommodate the movement of products or equipment shall be provided.

4. Screening and Fencing. Where the rear or side of a commercial use will abut a residential use, a screen at least six feet high shall be provided between the commercial and residential uses. The screen may be a sight-obscuring fence, shrubs or trees.

5. Drainage. The site shall be graded and appropriate culverts, and other facilities, shall be provided to remove surface runoff in a manner that will not affect adjacent properties or public roads.

6. Signs. No sign shall exceed a height of sixteen feet nor a total area of two hundred square feet. No flashing, blinking, or moving signs are permitted. (Ord. 155 § 1(j), 1982; Ord. 53 § 90-3, 1978)

17.20.040 Conditional uses.

Conditional uses shall include uses, other than permitted uses, that are appropriate to the purposes of this zone. A conditional use permit may be permitted if the proposed use meets the following conditions:

A. The traffic circulation pattern will be designed to assure a safe and smooth flow.

B. A sufficient number of off-street parking spaces shall be provided to serve employees and customers.

C. Industrial uses, storage areas, and other uses posing potential hazard to the public shall be enclosed by a fence at least six feet high. (Ord. 53 § 90-4, 1978)

Chapter 17.21

I/OS INSTITUTIONS AND OPEN SPACE ZONING DISTRICT

Sections:

17.21.010	Primary intended uses.
17.21.020	Permitted uses.
17.21.030	Building height limits.
17.21.040	Minimum lot area.
17.21.050	Maximum lot coverage.
17.21.060	Minimum lot width.
17.21.070	Minimum front yard depth.
17.21.080	Minimum side yard depth.
17.21.090	Minimum rear yard depth.
17.21.100	Water resource protection setback.

17.21.010 Primary intended uses.

To provide for areas intentionally left free from development for the following purposes:

A. To set aside and protect those areas whose primary purpose is to be open space, either natural or designed;

B. To manage development in areas that were previously hazardous to human health and limit development in areas that remain hazardous to human health;

C. To protect sensitive or fragile environmental areas or lands too steep for development;

D. To provide opportunities for outdoor recreation and contrast to the built environment;

E. To preserve:

1. Wildlife corridors/habitats,

2. Scenic viewsheds and qualities,

3. Cultural, historical and archaeological areas/structures,

4. Landmarks and natural resources including forest lands, range lands, agricultural lands, aquifer recharge areas, and areas of unique biological, physical, topographical, or botanical character, and

5. The capacity and water quality of the storm water drainage system. (Ord. 00-2 § 1 (part), 2000)

17.21.020 Permitted uses.

1. Airports;

2. Agricultural use, farms (crop cultivation, grazing);

3. Ballfields and other field uses for sports and appurtenant facilities that accommodate spectators;

4. Cemeteries;

5. Environmental educational centers/historical museum for the purpose of providing an area to display items relevant to the site;

6. Flood control channels;

7. Golf courses, including clubhouses and driving ranges;

8. Horticultural experiment stations;

9. Hospitals;

10. Management of reclaimed mining properties;

11. Nature centers, botanical gardens, natural areas, wildlife sanctuaries;

12. Parks, greenbelts and landscape areas;

13. Picnic areas;
14. Playgrounds;
15. Preservation of historic mining properties;
16. Public forests;
17. Rest areas;
18. Right-of-ways, including transmission lines and canals;
19. Scenic highways, including landscaped streets and highways;
20. Schools;
21. Swimming pools, including concession and parking areas;
22. Trails and trailheads;
23. Uses similar to those mentioned in this section may be permitted, subject to the approval of the zoning officer;
24. Water dependent areas including river and creek frontages, watershed areas, wetlands and flood plains; and
25. Other uses permitted under supplementary use regulations in Sections 17.38.170 through 17.38.240, inclusive of this title; and accessory uses, buildings and structures ordinarily appurtenant to any of the above permitted uses. (Ord. 00-2 § 1 (part), 2000)

17.21.030 Building height limits.

Building height limits shall be the same as in the C-2 zone. (Ord. 00-2 § 1 (part), 2000)

17.21.040 Minimum lot area.

No requirements. (Ord. 00-2 § 1 (part), 2000)

17.21.050 Maximum lot coverage.

The maximum impervious coverage by buildings, roads and parking area shall be twenty percent. Additional coverage may be allowed if approved by the zoning commission. (Ord. 00-2 § 1 (part), 2000)

17.21.060 Minimum lot width.

No requirements. (Ord. 00-2 § 1 (part), 2000)

17.21.070 Minimum front yard depth.

Minimum front yard shall be the same as permitted in the C-1 zone. (Ord. 00-2 § 1 (part), 2000)

17.21.080 Minimum side yard depth.

Minimum side yard shall be the same as permitted in the C-1 zone. (Ord. 00-2 § 1 (part), 2000)

17.21.090 Minimum rear yard depth.

Minimum rear yard shall be the same as permitted in the C-1 zone. (Ord. 00-2 § 1 (part), 2000)

17.21.100 Water resource protection setback.

Structures shall be located at least one hundred feet landward from the high water mark of the outer edge of the one hundred-year flood plain, as defined by the Federal Emergency Management Agency maps, along a navigable stream or designated flood plain area in Butte-Silver Bow. (Ord. 00-2 § 1 (part), 2000)

Chapter 17.22

C-1 LOCAL COMMERCIAL ZONE

Sections:

17.22.010	Primary intended
use.	
17.22.020	Permitted uses.
17.22.030	Conditional uses.
17.22.040	Limited C-1L
zones.	
17.22.050	Conditions.
17.22.060	Building height
limits.	
17.22.070	Minimum lot
area.	
17.22.080	Minimum lot
width.	

17.22.090	Minimum front yard depth.
17.22.100	Minimum side yard width.
17.22.110	Minimum rear yard depth.
17.22.120	Landscaping.

17.22.010 Primary intended use.

The C-1 zone is intended primarily to accommodate neighborhood shopping facilities consisting of retail and personal service establishments which secure their principal trade by supplying the daily needs of the population residing within approximately one-half mile of said business center. Only users serving the above purpose without undue detriment to surrounding residences should be permitted. The location and quantity of land in a C-1 zone should be commensurate with the purchasing power and needs of the present and potential population within said neighborhood trade area. The intent is that generally each C-1 zone should contain at least one acre and not more than three acres of usable land, and usually no business frontage therein should extend along any street for a distance greater than six hundred feet. The board of adjustment may exceed these limits of area and/or frontage where, in its judgment, unusual circumstances warrant the exception to achieve proper development consistent with the purpose of this title. It is intended that the shopping facilities of a neighborhood be provided wherever possible in a business island rather than on several sites of one or two lots each scattered throughout the neighborhood, or rather than in ribbons along arterials. Conditions and performance standards limiting the conduct of permitted uses are provided with the intent that they shall be required in certain C-1 zones or portions thereof (identified by the suffix "L"). (Ord. 135 § 1(1), 1981; Ord. 53 § 100-1, 1978)

17.22.020 Permitted uses.

Hereafter in the C-1 zone, no building or structure shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any other than the following unless otherwise provided in this title:

1. Any nonresidential use permitted conditionally in the R-1 zone subject to the same conditions;
2. Any retail use as long as the use is completely enclosed within a building not larger than five thousand square feet in gross floor area;
3. Artist galleries;
4. Bakery, retail only;
5. Barber and beauty shops;
6. Bicycle sales and repair shops;
7. Book and stationery stores;
8. Business and professional offices;
9. Catering services;
10. Christmas tree sales;
11. Confectionery stores;
12. Drugstores;
13. Dry goods stores;
14. Drycleaning pickup agencies including cleaning and pressing establishments; provided, that any solvents used shall be approved by the Butte-Silver Bow fire department;
15. Florists, excluding greenhouses;
16. Fountains and ice cream stands;
17. Frozen food rental lockers;
18. Gift shops;
19. Grocery, fruit, and vegetable stores;
20. Hardware and paint stores;
21. Hobby shops;
22. Laundry pickup agencies and self-service laundries;
23. Locksmith;
24. Meat markets;
25. Medical and dental offices and offices for the practice of healing sciences licensed by the state of Montana may be allowed by a conditional use permit from the board of adjustment after public hearing and a finding that such use will not be unduly detrimental to surrounding properties;
26. Newsstands;
27. Photographic studios and camera shops;

28. Public service and utility buildings serving the surrounding neighborhood such as fire stations, telephone exchanges and electric substations;

29. Residential apartments on the second floor of commercial businesses shall be allowed, except as provided under Section 17.22.030, Conditional uses;

30. Service stations may be permitted subject to the following conditions:

a. An ornamental masonry fence, forty-two inches in height, shall be erected along all side property lines, although to be subject to the fence height requirements of subsection D of Section 17.50.020, and on all rear property lines which adjoin R zones (with or without an intervening alley). Reasonable alley exists are allowable.

b. Service stations shall comply with the landscaping requirements of Section 17.28.040 and, where the masonry fence is required, a five-foot wide strip shall be landscaped with trees adjoining said fence. The remainder of the site shall be paved or landscaped.

c. The exterior of the building shall be harmonious with its surroundings and shall include some brick, stone, wood or similar material other than metal and glass. If said exterior and/or site improvements are such as to be of doubtful effect on the surroundings, the building inspector shall refer the application for the station to the board of adjustment for review.

d. Lighting shall be directed away from adjoining properties.

e. Outside operations shall be limited to the dispensing of gas, oil, and water, changing tires and similar customary services. There shall be no outside storage of used merchandise unless from public view.

f. There shall be no vehicle overhauling or disassembling.

g. The keeping of rental utility trailers not exceeding two may be allowed as accessory to a service station. Such accessory use in excess of two trailers may be allowed only by a conditional use permit from the board of adjustment.

31. Shoe sales and repair shops;

32. Sporting goods stores;

33. Variety and notions stores;

34. Video electronic skill devices, provided they are installed as an accessory use to any use allowed under this section and, further provided, that no more than three devices are in place at any one time;

35. Uses similar to those mentioned above may be permitted, subject to the approval of the zoning officer;

36. Other uses permitted under supplementary use regulations in Sections 17.38.170 through 17.38.240, and accessory uses, buildings, and structures ordinarily appurtenant to any of the above permitted uses. Nothing in this section shall be interpreted as permitting establishments serving alcoholic beverages for consumption on the premises in the C-1 zone. (Ord. 552 § 1 (part), 1996; Ord. 456 § 1, 1993; Ord. 164 § 1(A), 1982; Ord. 135 § 1(m), (n), (o), 1981; Ord. 90 § 1(E), 1979; Ord. 53 § 100-2, 1978)

17.22.030 Conditional uses.

Drive-in restaurants, ministorage warehouses, satellite banks, public housing and correctional housing. (Ord. 552 § 1 (part), 1996; Ord. 456 § 2, 1993; Ord. 293 § 1, 1987; Ord. 135 § 1(p), (q), 1981; Ord. 53 § 100-3, 1978)

17.22.040 Limited C-1L zones.

Whenever a C-1 zone identification has the suffix "L" added thereto, i.e. "C-1L," uses therein shall also comply with the regulations in Sections 17.38.010 through 17.38.080. (Ord. 53 § 100-4, 1978)

17.22.050 Conditions.

A. All business establishments shall be retail or service establishments dealing directly with the consumers. Products produced on the premises shall be sold at retail on the premises where produced or delivered directly to the consumer.

B. All business (except service stations and drive-ins), processing, and storage (including storage of waste materials), shall be conducted wholly within a building or shall be screened from view from the

surrounding properties in R and C zones. All off-street loading areas shall be located wholly within a building or shall be screened from view from the surrounding properties in R zones, except that no screening of loading areas shall be required along the property line adjoining an alley.

C. No merchandise shall be displayed out-of-doors in any required front or side yard nor in any street right-of-way. (Ord. 53 § 100-5, 1978)

17.22.060 Building height limits.

Building height limits shall be the same as in the R-2 zone. (Ord. 53 § 100-6, 1978)

17.22.070 Minimum lot area.

Minimum lot area shall be eight thousand square feet. (Ord. 53 § 100-7, 1978)

17.22.080 Minimum lot width.

Minimum lot width shall be seventy-five feet. (Ord. 53 § 100-8, 1978)

17.22.090 Minimum front yard depth.

When the greatest number of lineal feet of the boundary of the C-1 zone is adjoined by R zones other than R-3, each lot therein shall have a front yard not less than twenty feet in depth. In all other cases there shall be a front yard not less than fifteen feet in depth. (Ord. 53 § 100-9, 1978)

17.22.100 Minimum side yard width.

Minimum side yard width shall be as follows: none required for nonresidential uses except on corner lots along the side flanking a public street in which case there shall be a side yard not less than fifteen feet. When the side property line adjoins the side property line of a lot in an R zone, there shall be a side yard not less than twenty feet. (Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 53 § 100-10, 1978)

17.22.110 Minimum rear yard depth.

Minimum rear yard depth shall be twenty-five feet. For each foot that the front yard is increased over twenty-five feet, the rear yard may be decreased proportionately; except, that where the rear yard adjoins a lot in an R zone, there shall be a minimum rear yard of five feet required adjacent to said side lot line. (Ord. 53 § 100-11, 1978)

17.22.120 Landscaping.

In all C-1 zones, to maintain a development commensurate with residential improvements which exist or are ordinarily found in the surrounding R zones, the parking strips and the front ten feet of the required front yards and the required corner side yards shall be landscaped and properly maintained (driveways excepted.) All remaining portions of the lot lying in front of or to the side of the building thereon shall be landscaped and properly maintained or shall be screened or paved. Automatic sprinklers shall be provided covering all landscaped areas. (Ord. 53 § 100-12, 1978)

Chapter 17.24

C-2 COMMUNITY COMMERCIAL ZONE

Sections:

17.24.010	Primary intended
use.	
17.24.020	Permitted uses.
17.24.040	Conditional uses.
17.24.050	Limited C-2L
zones.	
17.24.060	Conditions.
17.24.070	Building height
limits.	
17.24.080	Minimum lot
area.	
17.24.090	Minimum lot
width.	
17.24.100	Minimum front
yard depth.	

**17.24.110 Minimum side
yard width.**

**17.24.120 Minimum rear
yard depth.**

17.24.010 Primary intended use.

The C-2 zone is intended primarily to accommodate community shopping facilities consisting of varied retail, service and office establishments grouped at locations convenient to Butte-Silver Bow's arterial streets where they can serve a trade area encompassing several neighborhoods usually within a distance of approximately three and one-half miles of such community commercial zoning district. The function of the community commercial zone is to provide a wider selection of goods and services than provided in the less intensive C-1 local commercial zone, and to do so within a shorter driving distance from the home than the C-3 central commercial zoning district. It is further intended that the location and quantity of land in a C-2 zone should be commensurate with the purchasing power and needs of the present and potential population within said trade area.

The intent is that generally, no business frontage therein should extend along any street for a distance greater than one thousand four hundred feet. However, the zoning commission may approve zoning boundaries which exceed these limits where, in its judgment, circumstances warrant and the expectation to achieve proper development is consistent with the purpose of this title and the master plan. It is intended that these community shopping facilities be provided wherever possible in a single business island centrally located in the trade area of business corridors rather than in ribbon or strip development along arterials or in several overdeveloped neighborhood shopping centers. In order to protect the public interest and welfare and where necessary to assure compatibility with the surrounding neighborhood, certain C-2 zones may be identified by the suffix L (limited) with the intent that uses within these districts shall be subject to conditions and performance standards which limit or restrict the conduct of the permitted use. (Ord. 225 § 1(H)

(part), 1985: Ord. 135 § 1(r), 1981: Ord. 53 § 110-1, 1978)

17.24.020 Permitted uses.

1. Any use permitted in the C-1 zone;
2. Any use approved as part of an approved PUD;
3. Adult uses, including but not limited to adult book stores, adult motion picture theaters, adult mini-motion picture theaters and adult entertainment cabarets providing no such adult use shall be located within four hundred feet of any residential zone nor within six hundred feet of any existing school or place of worship;
4. Amusement parks, recreation centers, skill device game rooms, including merry-go-rounds, pony riding rings, miniature golf, skating, dancing, ice rinks, bowling, archery ranges, video electronic skill games, billiard tables, and where an accessory use temporary carnivals and similar activities provided that where any such use is located within three hundred feet of any residential zone, a conditional use permit shall be required from the board of adjustment;
5. Antique stores;
6. Armories;
7. Auditoriums;
8. Automotive repair, including engine repair, custom upholstery and body and fender work provided that such activities are conducted totally within a building and where any such use is located within three hundred feet of any residential zone a conditional use permit shall be required from the zoning board of adjustment;
9. Automotive sale and supply stores;
10. Bakery, candy, ice cream and similar food products manufacturing provided that no more than ten persons shall be employed on the premises;
11. Banks and post offices;
12. Bath houses and commercial pools;
13. Boat sales establishments;
14. Bowling alleys;
15. Billboards subject to the provisions of Chapter 17.42;
16. Building supplies and glass stores when all activity and storage is confined within a building;

17. Bus terminals;
18. Business colleges and similar uses;
19. Catering services;
20. Commercial artists' shops;
21. Dance studios;
22. Department stores;
23. Drive-in eating and drinking establishments;
24. Drive-in window services including banks, film processing and similar uses;
25. Dry cleaning and laundry establishments employing not more than ten persons;
26. Exercise centers;
27. Film processing and photographic studios;
28. Floor covering and carpet stores;
29. Funeral homes;
30. Furniture stores including incidental repair;
31. Health and massage salons including barber and beauty shops;
32. Hotels, motels and motor lodges;
33. Leather goods stores including manufacturing provided that not more than ten persons shall be employed on the premises;
34. Lodges, convention centers in conjunction with motels or hotels;
35. Medical and orthopedic supply stores;
36. Messenger or telegraph service station;
37. Motorcycle and motorscooter sales and repair, provided such repair, testing and operating is conducted within a soundproofed building so as not to be detrimental to surrounding properties;
38. Multifamily residences shall be permitted, except as provided under Section 17.24.040, Conditional uses;
39. Ministorage; self-storage warehouses intended for the storage of nontoxic, noncombustible goods; provided that all storage be contained wholly within a building and that no materials, vehicles or other items be stored outside;
40. Museums and art galleries;
41. Newspaper offices;
42. Nurseries and commercial greenhouses;
43. Offices, professional and business;
44. Office supply stores;
45. Open sales lots for the sale, rental or display of fruits, vegetables, shrubbery, operable used cars and

trucks, luggage trailers, campers, camper trailers not more than twenty-eight feet in length and new mobile homes;

46. Opticians, including incidental manufacturing;
47. Pet shops (excluding kennels) including dog grooming;
48. Printing establishments;
49. Private clubs;
50. Public parking garages;
51. Public service and utility buildings;
52. Repair and rental shops for furniture, small electrical motors, business machines and household appliances;
53. Residential apartments on the second floor of commercial businesses shall be permitted, except as provided under Section 17.24.040, Conditional uses;
54. Restaurants;
55. Secondhand stores and pawnshops provided no goods shall be displayed outside the building;
56. Service stations and self-service car wash facilities provided that any such establishment adjoining a lot in an R zone shall be improved in compliance with the regulations in Section 17.22.020. Storage of fuel oil at duly authorized service stations for delivery to the consumer by means of truck may be allowed by a conditional use permit from the zoning board of adjustment upon proof that such storage facility and operation thereof will not be unduly detrimental to surrounding properties and that said storage shall be underground. No truck shall be parked on the premises except during actual refueling operations;
57. Skating rinks;
58. Soft water and service establishments;
59. State liquor stores;
60. Studios for broadcasting and commercial recording provided that transmitting towers may be allowed by a conditional use permit from the zoning board of adjustment after a finding that such towers will not be unduly detrimental to surrounding uses or properties;
61. Temporary carnivals and circuses;
62. Theaters, excluding motion pictures drive-ins;
63. Tire shops, excluding tire recapping;
64. Wholesale and mail order offices excluding those establishments whose principle activity is that of

a storage warehouse. Limited storage may be conducted on a premises by a conditional use permit from the zoning board of adjustment after a finding that such use will not be unduly detrimental to surrounding properties and that the site is commensurate in size, shape and location to accommodate traffic volumes and parking;

65. Uses similar to those mentioned above may be permitted subject to the approval of the zoning officer;

66. Other uses permitted under supplementary use regulations in Sections 17.38.170 through 17.38.240, inclusive, of this title; and accessory uses, buildings and structures ordinarily appurtenant to any of the above permitted uses. (Ord. 552 § 1 (part), 1996; Ord. 456 § 3, 1993; Ord. 323 § 1, 1988; Ord. 225 § 1(H) (part), 1985; Ord. 164 § 1(B), 1982; Ord. 135 § 1(s), (t), (u), 1981; Ord. 117 § 1(B), 1980; Ord. 53 § 110-2, 1978)

17.24.040 Conditional uses.

Amusement parks and recreation centers, armories, auditoriums, bars, taverns, nightclubs and casinos serving alcoholic beverages subject to other laws, regulations and ordinances of Butte-Silver Bow and the state of Montana; clinics for large and small animals, dogs, cats, birds and the like may be allowed by a conditional use permit from the board of adjustment; provided, that such clinic and any treatment rooms, cages, wards or runs be maintained within a completely enclosed soundproof building constructed substantially in accordance with standards of the American Animal Hospital Association, and such clinics will be operated in such a way as to produce no objectionable odors or noise outside its walls, or other nuisance or health hazard; drive-in theaters and stadiums; public housing and; correctional housing. (Ord. 552 § 1 (part), 1996; Ord. 456 § 4, 1993; Ord. 135 § 1(v), 1981; Ord. 53 § 110-3, 1978)

17.24.050 Limited C-2L zones.

Whenever a C-2 zoning district has the suffix "L" added thereto, uses therein shall comply with the regulations set forth in Section 17.38.010 through 17.38.080. (Ord. 225 § 1(H) (part), 1985; Ord. 53 § 110-4, 1978)

17.24.060 Conditions.

All storage (including storage of waste materials) shall be located wholly within a building or shall be screened from view from the surrounding properties in any R or C zone. In limited zones, uses shall also comply with the conditions in Sections 17.38.010 through 17.38.080. (Ord. 225 § 1(H) (part), 1985; Ord. 53 § 110-5, 1978)

17.24.070 Building height limits.

Building height limits shall be the same as permitted in the R-2 zone; except that multifamily dwelling units within Category II may extend to eighty feet. (Ord. 53 § 110-6, 1978)

17.24.080 Minimum lot area.

No requirement, except multifamily residences shall be governed by Section 17.14.050. (Ord. 128 § 1 (part), 1981; Ord. 53 § 110-7, 1978)

17.24.090 Minimum lot width.

No requirement, except multifamily residences shall be governed by Section 17.14.060. (Ord. 128 § 1 (part), 1981; Ord. 53 § 110-8, 1978)

17.24.100 Minimum front yard depth.

Minimum front yard depth shall be the same as permitted in the C-1 zones. (Ord. 53 § 110-9, 1978)

17.24.110 Minimum side yard width.

Minimum side yard width shall be the same as permitted in the C-1 zones. (Ord. 53 § 110-10, 1978)

17.24.120 Minimum rear yard depth.

Minimum rear yard depth shall be the same as permitted in the C-1 zones. (Ord. 53 § 110-11, 1978)

Chapter 17.26

C-3 CENTRAL COMMERCIAL ZONE

Sections:

17.26.010	Primary intended use.
17.26.020	Permitted uses.
17.26.030	Conditions.
17.26.035	Conditional uses.
17.26.040	Building height limits.
17.26.050	Minimum lot area.
17.26.060	Minimum lot width.
17.26.070	Minimum front yard depth.
17.26.080	Minimum side yard width.
17.26.090	Minimum rear yard depth.

17.26.010 Primary intended use.

The C-3 zone is intended primarily to accommodate stores, offices, service establishments, hotels, and governmental and cultural centers at the central focal point of the arterial and transportation systems where they can conveniently serve the population of Butte-Silver Bow, state of Montana, and the entire surrounding area with a varied and specialized selection of goods and services. (Ord. 53 § 120-1, 1978)

17.26.020 Permitted uses.

Hereafter in the C-3 zones, no building or structure shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any use other than the following unless otherwise provided in this title:

1. Any retail or wholesale business and service business uses including the following uses, subject to Section 17.26.010;

2. Amusement enterprises, including pool halls, skill device gamerooms, penny arcades, and similar uses, including temporary circuses; provided, that any such use that is located within three hundred feet of any residential zoning district be governed by a conditional use permit obtained from the board of adjustment;

3. Antique shops;
4. Any use permitted in the C-2 zone;
5. Auction houses;
6. Baby store;
7. Bakeries;
8. Bakery whose products are sold only at retail;
9. Barbershop or beauty parlor;
10. Businesses and professional offices;
11. Furniture store;
12. Garages, public;
13. Gift shop;
14. Grocery and delicatessen;
15. Hardware store;
16. Hobby shop;
17. Hotel, motel, or motor lodge;
18. Household appliances, sales and repair;
19. Household equipment repair shops;
20. Jewelry shop;
21. Laboratories, experimental; excluding activity which may be hazardous because of explosion or fire;
22. Launderette and similar business;
23. Laundry;
24. Missions and similar philanthropic uses;
25. Multifamily residences shall be permitted, except as provided under Section 17.26.035, Conditional uses;
26. Office building;
27. Packaging of candy, confections and/or frozen foods;

28. Paint and wallpaper store;
 29. Pawnshops;
 30. Printing and/or publishing business;
 31. Radio and television, sales and repair;
 32. Real estate office;
 33. Restaurant, cafe and soda fountain;
 34. Shoe repair shop;
 35. Sporting goods;
 36. Storage garages;
 37. Studios;
 38. Tailor shop;
 39. Taverns, beer parlors and nightclubs serving alcoholic beverages subject to other regulations, laws, and ordinances of Butte-Silver Bow and the state of Montana;
 40. Telegraph office;
 41. Telephone office;
 42. Variety store;
43. Wholesale establishments with stock on the premises, but excluding establishments whose principal activity is that of a storage warehouse and those uses first permitted in the M zones;
44. Other uses permitted under supplementary use regulations in Sections 17.38.170 through 17.38.240, and accessory uses, buildings, and structures ordinarily appurtenant to any of the above uses;
45. Uses similar to those mentioned above in this section may be permitted, subject to the approval of the zoning officer;
46. Adult uses including but not limited to adult book stores, adult motion picture theaters, adult mini motion picture theaters and adult entertainment cabarets and subject to the following restrictions:
- a. No such adult use shall be located within four hundred feet of any zoning district which is zoned for residential use;
 - b. No such adult use shall be located within six hundred feet of a preexisting school or place of worship or a site dedicated for a school or place of worship. (Ord. 552 § 1 (part), 1996; Ord. 225 § 1(G), 1985; Ord. 164 § 1(C), 1982; Ord. 117 § 1(C), 1980; Ord. 53 § 120-2, 1978)

17.26.030 Conditions.

In all C-3 zones, all storage (including storage of waste materials) shall be located wholly within a building or shall be screened from view from the surrounding properties in R and C zones. (Ord. 53 § 120-3, 1978)

17.26.035 Conditional uses.

Light industrial uses which meet the Class B Occupancy of the Uniform Building Code, public housing and correctional housing. (Ord. 552 § 1 (part), 1996; Ord. 456 § 5, 1993)

17.26.040 Building height limits.

There shall be no building height limit requirement. (Ord. 53 § 120-4, 1978)

17.26.050 Minimum lot area.

There shall be no minimum lot area requirement. (Ord. 53 § 120-5, 1978)

17.26.060 Minimum lot width.

There shall be no minimum lot width requirement. (Ord. 53 § 120-6, 1978)

17.26.070 Minimum front yard depth.

There shall be no requirement for any other building unless fronting on the proposed right-of-way of a major thoroughfare shown on the official major thoroughfare plan, in which case the building setback shall be the proposed right-of-way line. (Ord. 53 § 120-7, 1978)

17.26.080 Minimum side yard width.

There shall be no requirement for any other building except when adjacent to the side lot line of a lot in an R zone, in which case the minimum side yard width shall not be less than fifteen feet. (Ord. 53 § 120-8, 1978)

17.26.090 Minimum rear yard depth.

There shall be no requirement for any other building except when adjacent to the side lot line of a lot in an R zone, in which case the minimum rear yard depth shall be ten feet. (Ord. 53 § 120-9, 1978)

Chapter 17.27

C-M COMMERCIAL AND LIGHT INDUSTRIAL ZONE

Sections:

17.27.010	Primary intended use.
17.27.020	General provisions.
17.27.030	Permitted uses.
17.27.040	Special conditions.
17.27.050	Minimum lot area.
17.27.060	Building height limits.
17.27.070	Minimum yard setbacks.

17.27.010 Primary intended use.

The C-M zone is intended primarily to provide a district to accommodate selected commercial retail sales and service facilities and to accommodate a variety of light manufacturing activities including warehousing, storage, distributing, wholesale activities, research laboratories, and similar uses which include development standards so as to be suitable for location within commercial or industrial areas. It is also the intent of this zone to facilitate the reuse and recycling of existing commercial and industrial buildings within the central urban area of Butte-Silver Bow. (Ord. 214 § 1(B)(125-1), 1984)

17.27.020 General provisions.

A. C-M zoning districts may be created in areas shown as either community commercial or light industrial on the official zoning map or the comprehensive plan land use map.

B. C-M districts shall be in contiguous increments of not less than two acres exclusive of streets, except where specifically approved by the zoning commission after a finding that special circumstances warrant a smaller district. All commercial and manufacturing activities shall be conducted totally within a building. However, incidental uses such as outside storage may be permitted providing such activities comply with provisions of subsection B of Section 17.27.040.

C. New residential uses shall be prohibited. Existing residential uses shall be subject to the provisions of Chapter 17.48. (Ord. 602 § 1 (part), 1998; Ord. 214 § 1(B)(125-2), 1984)

17.27.030 Permitted uses.

The following uses are permitted in the C-M zone.

- A. Retail Uses.
1. Automotive service stations;
 2. Automobile and truck sales with incidental repair and service;
 3. Boat sales with incidental repair and service;
 4. Building supplies, new;
 5. Electrical supplies;
 6. Equipment sales;
 7. Farm implements and machinery sales with incidental repair and service;
 8. Feed and hay sales;
 9. Glass and paint stores including incidental repair and service;
 10. Hardware stores;
 11. Harness and saddle sales and repair;
 12. Mining equipment sales and incidental repair and service;
 13. Ice and dry ice sales and manufacture;
 14. Mobile home sales;
 15. Motorcycle and snowmobile sales with incidental repair and service;
 16. Plumbing supplies;

17. Tire sales.
- B. Services.
 1. Appliance repairs;
 2. Automotive:
 - a. Body and fender shops,
 - b. Painting,
 - c. Reconditioning,
 - d. Repairs,
 - e. Tire capping,
 - f. Truck repair,
 - g. Upholstering;
 3. Auction houses;
 4. Blueprint photocopying;
 5. Boat repairs;
 6. Bus terminal, storage and repair;
 7. Carpet and rug cleaning plants;
 8. Cleaning and dyeing plants;
 9. Employment and union agencies;
 10. Farm equipment and irrigation services;
 11. Laundry (commercial);
 12. Mineral assay offices;
 13. Mining equipment repair;
 14. Newspaper and book publishing;
 15. Offices for any contracting, manufacturing, processing, fabrication, wholesale or distribution facility;
 16. Printing shop, lithography, publishing;
 17. Radiator shop;
 18. Radio and television broadcasting station;
 19. Radio and television repair;
 20. Refrigeration and air conditioning repair and service;
 21. Taxidermist;
 22. Truck terminals;
 23. Wholesale and warehousing facilities including storage garage.
- C. Manufacturing.
 1. Assembly or repair of small electrical and electronic equipment;
 2. Bottling plants;
 3. Cabinet or carpenter shops;
 4. Ceramic products manufacture using only previously pulverized clay and fired in kilns using only gas or electricity;

5. Custom furniture manufacture and sales;
6. Furniture upholstery shops;
7. Laboratories (research and engineering);
8. Light assembly of previously prepared components;
9. Light fabrication of metal, i.e. sheetmetal shops, wrought iron products;
10. Jewelry manufacturing;
11. Machine shops (no punch presses over five tons or drop hammers);
12. Manufacturing, compounding, processing, packaging or treatment of products such as:
 - a. Bakery goods,
 - b. Candy and other confectionery products,
 - c. Cosmetics,
 - d. Dairy products,
 - e. Fruit and vegetable (packaging only and excluding odorous processes),
 - f. Pharmaceutical drugs and supplies,
 - g. Toiletries;
13. Manufacture and maintenance of electrical signs (including neon signs);
14. Mini-warehouses;
15. Retail lumber yards including incidental mill work. (Outdoor storage and use areas shall be subject to the provisions of Sections 17.38.120 through 17.38.160);
16. Welding shops including blacksmith and silversmith facilities, providing all use and storage areas are within a building;
17. Wholesale meat cutting and packaging provided there shall be no slaughtering or fat rendering.
- D. Uses similar to those mentioned above, may be permitted subject to the approval of the zoning enforcement officer.
- E. All uses permitted under the supplementary use regulations in Chapter 17.38 and structures ordinarily appurtenant to any of the above uses. (Ord. 214 § 1(B)(125-3), 1984)

17.27.040 Special conditions.

A. Every building in a C-M zone shall be so constructed, the machinery and equipment shall be so installed, and the activities shall be so conducted that all noise, vibration, dust, odor, glare and other objectionable factors shall be confined or reduced to the extent that no annoyance or injury will result to persons residing in the vicinity.

B. Open storage of materials and equipment may be permitted in a C-M zone only when incidental to the use of an office, store or manufacturing building located on the same lot or property, provided that:

1. Storage is located on the rear one-half of the lot and is confined to an area not to exceed forty percent of the total lot area.

2. Storage is completely enclosed by a solid wall or solid fence (including gates) not less than six feet in height.

3. No materials shall be stored to a height greater than that of the wall or fence enclosing that storage area.

C. Uses which are customarily accessory and/or incidental to permitted uses shall be permitted. (Ord. 214 § 1(B)(125-4), 1984)

17.27.050 Minimum lot area.

Existing commercial and light manufacturing lots to which a C-M zone is applied shall have a minimum of four thousand five hundred square feet; provided, however, that commercial and light manufacturing lots created after the effective date of the ordinance codified in this chapter shall have a minimum area of six thousand square feet unless otherwise specifically approved by the zoning commission. (Ord. 214 § 1(B)(125-5), 1984)

17.27.060 Building height limits.

No building constructed in a C-M zone shall exceed three stories or sixty-five feet; provided, however, that existing buildings may be structurally altered and/or additions may be extended in height one story or fifteen feet. (Ord. 214 § 1(B)(125-6), 1984)

17.27.070 Minimum yard setbacks.

New buildings constructed in the C-M zone shall provide the following buildings setbacks:

A. Front Yard. Where the front lot line of a C-M district is across the street from a residential zoning district or the C-M district directly adjoins a residential district on one side, the front yard setback requirement of the residential district shall apply. In all other cases, no front yard setback shall be required. Where front yard setback is required in the C-M zone, the yard shall be landscaped and maintained except for approved driveways, walkway or parking.

B. Side Yard. Where the side lot line of a C-M district adjoins directly to a residential district, the side yard setback for the primary structure of the residential district shall apply. Where the side lot line abuts a public street, a side yard setback of eight feet shall be required. In all other cases, no side yard shall be required.

C. Rear Yard.

1. Where the rear lot line is across an alley or street from a residential district, a rear yard setback of fifteen feet shall be required.

2. Where the C-M district directly adjoins a residential district on one side, the rear yard setback for the primary structure of the residential district shall apply. In all other cases, no rear yard shall be required.

3. Outside storage may be permitted within a required rear yard setback, providing the storage area meets all other requirements of this chapter. (Ord. 214 § 1(B)(125-7), 1984)

Chapter 17.28

M-1 LIGHT INDUSTRIAL ZONE

Sections:

17.28.010	Primary intended
use.	
17.28.020	Permitted uses.
17.28.030	Limited M-1L
zones.	

17.28.040	Accessory uses.
17.28.050	Conditions.
17.28.060	Building height
limits.	
17.28.070	Minimum lot
area.	
17.28.080	Minimum lot
width.	
17.28.090	Minimum yards.

17.28.010 Primary intended use.

The M-1 zone is intended primarily to accommodate a variety of light industrial uses and to provide a greater flexibility within the zoning regulations for those industries which do not create noise, odors, smoke, and other objectionable nuisances to the extent as do the heavier industries restricted to the M-2 zone. The intent is that certain M-1 zones or portions thereof identified on the zoning map will be limited to the less intensive uses. Also, conditions and performance standards limiting the conduct of permitted uses are provided with the intent that they shall be required in certain M-1 zones or portions thereof (identified by the suffix "L") where necessary to achieve industrial park development compatible with the surrounding neighborhood. To achieve this intent the regulations in this chapter and the supplementary regulations in Chapter 17.38 shall apply in M-1 zones. (Ord. 53 § 130-1, 1978)

17.28.020 Permitted uses.

A. Uses permitted in the M-1 zone shall be as follows:

1. Automobile repair and paint shops;
2. Air-conditioning service establishments;
3. Adhesive manufacturing, excluding asphalts and glue manufacturing;
4. Babbit metal manufacturing;
5. Boat repair and manufacturing (small craft);
6. Bolt threading;
7. Bottling and breweries;
8. Broom and brush manufacturing;
9. Bus repair and storage;

10. Butane and similar gas stations;
11. Cabinet shops and custom furniture manufacturing;
12. Candy manufacturing;
13. Canneries;
14. Carbon paper and typewriter ribbon manufacturing;
15. Compartmentalized storage for commercial and residential;
16. Contractors storage yards;
17. Convenience stores in conjunction with a service station;
18. Electrical contractors and neon sign manufacturing;
19. Electroplating;
20. Engraving;
21. Farming equipment and heavy machinery sales establishments;
22. Feed and seed processing and sales;
23. Fertilizer sales—wholesale and retail;
24. Food product manufacturing;
25. Fumigating establishments;
26. Furniture manufacturing;
27. Greenhouses and nurseries;
28. Hatcheries, poultry and fish, and small farms;
29. Heliports;
30. Ice cream manufacturing;
31. Ink product manufacturing;
32. Laboratories-research and testing;
33. Lumberyards, excluding sawmills, salvage yards, handling salvage lumber and building materials, building wrecking yards;
34. Machine shops;
35. Manufacturing, compounding, processing, packaging, or treating of such products as drugs, pharmaceuticals, toiletries, cosmetics, perfumes, etc., excluding the refining or rendering of fats or oils;
36. Manufacturing of small mechanical devices;
37. Monument and stone works, excluding rock crushing and quarrying;
38. Motels;
39. Office equipment supplies and services;
40. Packaging plants;
41. Paper products manufactured from previously prepared materials;

- 42. Plumbing and heating shops;
- 43. Printing and publishing;
- 44. Rental service storage and yards;
- 45. Sand and gravel storage yards;
- 46. Sash and door millworks and similar uses;
- 47. Sheet metal shops;
- 48. Sign manufacturing;
- 49. Storage warehouse;
- 50. Television and radio broadcasting;
- 51. Textile and canvas manufacturing;
- 52. Tire recapping;
- 53. Truck terminals;
- 54. Truck stops;
- 55. Welding shops;
- 56. Wire and wire products manufacturing;
- 57. Wholesale and warehouse establishments;
- 58. Uses similar to those mentioned above in this section may be permitted, subject to the approval of the zoning officer;
- 59. Veterinary clinics—small and large animals;
- 60. Other uses permitted under the supplementary use regulations in Sections 17.38.170 through 17.38.240 and structures ordinarily appurtenant to any of the uses listed above in this section.

B. Nothing in this section shall be interpreted as permitting any residential use to be located within an M-1 zone. Existing residential uses shall be subject to the provisions of Chapter 17.48, Nonconforming uses. (Ord. 602 § 1 (part), 1998; Ord. 456 § 6, 1993; Ord. 53 § 130-2, 1978)

17.28.030 Limited M-1L zones.

Whenever an M-1 zone identification has the suffix “L” added, uses therein shall also comply with Sections 17.38.010 through 17.38.080. (Ord. 53 § 130-3, 1978)

17.28.040 Accessory uses.

Accessory uses shall include any use customarily accessory and incidental to permitted uses. (Ord. 53 § 130-4, 1978)

17.28.050 Conditions.

A. In all M-1 zones, all storage (including storage of waste materials) located on a lot which adjoins a lot in an R or C zone, with or without an intervening street or alley, shall be located wholly within a building or shall be screened from view from the surrounding properties in said R or C zone. In limited zones, uses shall also comply with the conditions in Sections 17.38.010 through 17.38.080.

B. Use of drop hammers or similar equipment is prohibited within three hundred feet of any R zone. (Ord. 53 § 130-5, 1978)

17.28.060 Building height limits.

Building height limits shall be as follows: three stories not to exceed sixty-five feet. (Ord. 53 § 130-6, 1978)

17.28.070 Minimum lot area.

There shall be no minimum lot area requirement. (Ord. 53 § 130-7, 1978)

17.28.080 Minimum lot width.

There shall be no minimum lot width requirement. (Ord. 53 § 130-8, 1978)

17.28.090 Minimum yards.

Uses in all M-1 zones shall provide yards as follows and uses in limited zones shall comply with yard regulations in Sections 17.38.010 through 17.38.080.

- A. Minimum front yard depth, thirty feet;
- B. Minimum side yard width, eight feet;
- C. Minimum rear yard depth, none required except on a lot whose rear property line adjoins a lot in an R zone without an intervening alley. In such cases there shall be a rear yard not less than fifteen feet in depth. (Ord. 53 § 130-9, 1978)

Chapter 17.30

M-2 HEAVY INDUSTRIAL ZONE

Sections:

17.30.010	Primary intended use.
17.30.020	Permitted uses.
17.30.030	Conditions.
17.30.035	Conditional uses.
17.30.040	Maximum bulk and height limits.
17.30.050	Minimum yards.

17.30.010 Primary intended use.

The M-2 zone is intended primarily to preserve land for heavier industrial uses at locations where their operations will be neither injurious to nor hindered by residences. It is intended that residences should not be permitted except where such use has already been established on adjoining lots. (Ord. 53 § 140-1, 1978)

17.30.020 Permitted uses.

A. Hereafter in the M-2 zone no building or structure shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any use other than the following unless otherwise provided in this title:

1. Any nonresidential use permitted in the M-1 zone;
2. Apiaries, commercial;
3. Bleaching powder manufacturing;
4. Bolt and nail manufacturing;
5. Brick and tile manufacturing;
6. Can manufacturing and tank-coating;
7. Cellulose manufacturing, excluding nitrates;
8. Cesspool cleaning equipment storage;
9. Chemical manufacturing, excluding manufacturing of explosives, ammonia, alcohol, and stove polish;
10. Concrete block and pipe manufacturing;
11. Concrete transit and mix plants;
12. Die casting;

13. Dye manufacturing;
14. Electric power plants;
15. Emery cloth and sandpaper manufacturing;
16. Fertilizer manufacturing and manure processing;
17. Forging industries using drop hammers;
18. Foundries, including iron, steel, brass, bronze, copper;
19. Galvanizing;
20. Gas storage, heating and chlorine;
21. Glass manufacturing;
22. Graphite manufacturing;
23. Junkyards and salvage yards (including house wrecking, used lumber and salvaged building materials and parts, auto wrecking yards, auto shredding and baling, storage of scrap metals, etc.) when located not less than three hundred feet from an R or C zone or state or federal highway, and provided all activity, merchandise display and storage shall be indoors or screened by a fence, properly erected or conventional masonry, new wood and/or new wire materials having a sight-obscuring effect;
24. Kennels, when located not less than three hundred feet from an R zone;
25. Large household appliance manufacturing;
26. Lightweight aggregate manufacturing;
27. Linoleum and oilcloth manufacturing;
28. Match manufacturing;
29. Meat canning, smoking, and curing;
30. Oxygen gas manufacturing;
31. Petroleum wholesale storage and distribution;
32. Pipe manufacturing from clays or metals;
33. Planing mills;
34. Plastic manufacturing;
35. Porcelain enameling works;
36. Poultry and rabbit slaughtering; provided, that such establishments shall not be located within three hundred feet of an R zone;
37. Printing ink manufacturing;
38. Railroad repair shops;
39. Refuse and garbage dumps and incinerators;
40. Rendering of edible fats;
41. Sand and gravel pits by a conditional use permit from the board of adjustment after a finding that such use will not be unduly detrimental to surrounding

properties and that the use will not jeopardize the probable industrial use of surrounding properties through the breaking up of large industrial sites, nor of the site itself upon termination of the extraction operation. The permit shall be temporary, conditional and revocable. Conditions shall be required by the board as it may deem necessary to eliminate any hazard and any detriment to the site or surrounding properties and zone, and to restore the land so that development of the highest potential uses as indicated by this title for the site and surrounding properties and zone will not be impaired. The conditions may include a performance bond and an agreement to rehabilitate the excavation by refilling, recontouring, replacement of subsoil and topsoil, and planting of protective ground cover in order to assure the elimination of such hazard and detriment. No permit shall be issued for extraction of sand or gravel on any site within six hundred feet of any R zone, nor less than fifty from any street or adjoining property line;

- 42. Sandblasting;
- 43. Saltworks;
- 44. Sausage manufacturing;
- 45. Sawmills;
- 46. Slaughterhouses;
- 47. Soap manufacturing from previously prepared materials;
- 48. Sodium manufacturing;
- 49. Stables and the keeping of livestock other than swine;
- 50. Stockyards;
- 51. Stone quarries, extraction of minerals, oil, and similar uses other than sand and gravel pits; provided, that all open excavations with a slope steeper than one foot vertical for every two feet horizontal, or which has water therein, shall be enclosed by an eight-foot fence;
- 52. Tanning;
- 53. Tobacco treatment, except chewing tobacco;
- 54. Uses similar to those mentioned above, may be permitted, subject to the approval of the zoning officer;
- 55. Vegetable oil manufacturing;
- 56. Vinegar manufacturing;
- 57. Wool pulling and scouring;

58. Yeast manufacturing;

59. Other uses permitted under supplementary use regulations in Sections 17.38.170 through 17.38.240, and accessory uses, buildings, and structures appurtenant to any other permitted uses listed above in this section. Nothing in this section shall be interpreted as permitting temporary or permanent residences in the M-2 zone, except that caretakers or owners of the business may have a residence on the premises.

B. Exceptions. The provisions of this title shall not apply to any operation or use which is subject to review by the State Department of Lands with regard to any mining plan, permit or contract or to any operation of use which is subject to review by the State Department of Natural Resources and Conservation with regard to a certificate of environmental compatibility and public need. However, when a person applies to either the State Department of Lands or the Department of Natural Resources and Conservation for a permit, that person shall notify the council of commissioners by letter of such action at the time of submitting this application.

A mining area is a designated area of land where mining operations have occurred in the past, are presently occurring, or may occur in the future.

C. Nothing in this section shall be interpreted as permitting any temporary or permanent residences within an M-2 zone. Existing residential uses shall be subject to the provisions of Chapter 17.48, Nonconforming uses. (Ord. 602 § 1 (part), 1998; Ord. 456 § 7, 1993; Ord. 225 § 1(F), 1985; Ord. 135 § 1(w)—(z), 1981; Ord. 105 § 1, 1980; Ord. 53 § 140-2, 1978)

17.30.030 Conditions.

All storage (including storage of waste materials) located on a lot which adjoins a lot in an R or C zone, with or without an intervening street or alley, shall be located wholly within a building or shall be screened from view from the surrounding properties in said R or C zone. (Ord. 53 § 140-3, 1978)

17.30.035 Conditional uses.

1. Acetylene gas manufacturing;
2. Acid manufacturing;
3. Aircraft manufacturing, excluding engine testing within three hundred feet of an R zone;
4. Asbestos manufacturing;
5. Asphalt plants;

6. Automobile manufacturing;
7. Bag cleaning;
8. Battery manufacturing;
9. Blast furnaces;
10. Boilerworks;
11. Carpet manufacturing;
12. Cement, gypsum, lime, plaster of paris, and pozzalin manufacturing;
13. Chlorine gas manufacturing;
14. Coke ovens;
15. Creameries;
16. Crematories;
17. Creosote manufacturing or treating;
18. Disinfectants and insecticides manufacturing;
19. Distillation of bones, the rendering of inedible fats, the disposal of dead animals and the manufacture of glue;
20. Fish canning, smoking and curing;
21. Grain elevators and flour mills;
22. Incinerators;
23. Ironworks;
24. Machinery manufacturing, including heavy equipment and large household appliances;
25. Paint, lacquer, varnish and turpentine manufacturing;
26. Paper manufacturing;
27. Petroleum refineries and distillation of tar;
28. Potash manufacturing;
29. Pyroxylin manufacturing;
30. Rolling mills;
31. Rubber manufacturing;
32. Smelters and ore reduction;
33. Sugar refineries;
34. Tallow manufacturing; and

35. Tire manufacturing. (Ord. 456 § 8, 1993)

17.30.040 Maximum bulk and height limits.

Maximum bulk and height limits shall be the same as permitted in the M-1 zone. (Ord. 53 § 140-4, 1978)

17.30.050 Minimum yards.

Minimum yard requirements shall be the same as permitted in the M-1 zone. (Ord. 53 § 140-5, 1978)

Chapter 17.31

RM-2 RURAL INDUSTRIAL ZONE

Sections:

17.31.010	Purpose and primary intended use.
17.31.020	Permitted uses.
17.31.070	Minimum lot area.
17.31.080	Minimum yards.
17.31.090	Maximum lot coverage.
17.31.100	Signs.
17.31.110	Development requirements and special standards.
17.31.120	Landscaping requirements.
17.31.130	Submittal requirements.
17.31.140	Evaluation of applications by zoning officer.
17.31.150	Administrative decision process.
17.31.160	Special review process.

17.31.010 Purpose and primary intended use.

The purpose of the Rural Industrial zone is to provide a location for heavy or transportation-oriented industry or services and ancillary services plus highway-oriented and service activities proximate to the Interstate 15 interchange.

These uses may require large tracts of land and/or rail access or may benefit from being near the junction of Interstates 15 and 90. Some of the industrial activities may utilize or store hazardous material or produce by-products or final products which are determined to be potentially hazardous, thus requiring special review to ensure their proper placement. A special review is a process established by this chapter to assure the appropriateness of a proposed use by applying conditions which protect the public health, safety, and general welfare and the integrity of the RM-2 zone. Because of the impacts associated with industrial and commercial activities, residential and general retail activities are discouraged from locating within this district while ancillary light industrial uses and commercial activities incidental and related to the industrial uses shall be considered consistent with the purpose and intent of this zone. The applicants and owners of uses permitted within the district shall assure that proper safety measures are in place to protect other properties and users from any hazardous conditions or potential adverse environmental impacts arising from the use. (Ord. 409 § 3 (part), 1991)

17.31.020 Permitted Uses.

The following table contains the list of uses for the Rural Industrial District (numbers refer to uses as listed in the Standard Industrial Classification Manual, 1987):

LIST OF USES

(SR=Special Review
A=Allowed)

Agricultural A

- Commercial (Highway-oriented and incidental to permitted uses) A
- UtilitiesA
- Railroads A
- Roads A
- Residential A
- #20 Food and Kindred ProductsA
 - 201 Meat ProductsSR
 - 202 Dairy ProductsSR
 - 2077 Animal and Marine Fats and OilsSR
 - 2093 Canned and Cured Fish and SeafoodsSR
 - 2092 Prepared Fresh or Frozen FishSR
- #21 Tobacco ProductsSR
- #22 Textile Mill ProductsA
 - 226 Dyeing and Finishing TextilesSR
 - 229 Miscellaneous Textile GoodsSR
- #23 Apparel and other Finished Products Made from Fabrics A
- #24 Lumber and Wood ProductsA
 - 243 LoggingSR
 - 2435 Hardwood Veneer and PlywoodSR
 - 2436 Softwood Veneer and PlywoodSR
 - 2421 Sawmills and Planing MillsSR
 - 2491 Wood PreservingSR
 - 2493 Reconstituted Wood ProductsSR
- #25 Furniture and FixturesA
- #26 Paper and Allied Products (except Industry Group #265 as noted below)SR
 - 265 Paperboard Containers and BoxesA
- #27 Printing, PublishingA
- #28 Chemicals and Allied ProductsSR
- #29 Petroleum Refining and Related IndustriesSR
- #30 Rubber and Miscellaneous Plastics ProductsSR
- #31 Leather and Leather ProductsA
 - 311 Leather Tanning FinishingSR
- #32 Stone, Clay, Glass, ConcreteA
 - 3292 Asbestos ProductsSR
 - 3296 Mineral WoolSR
- #33 Primary Metal IndustriesSR
- #34 Fabricated Metal ProductsA
 - 348 Ordinance and AccessoriesSR
- #35 Industrial and Commercial Machinery and Equipment A
 - 357 Computer and Office EquipmentSR

358 Refrigeration and Service Industry Machinery SR

#36 Electronic and Other Electrical Equipment and Components A

367 Electronic Components and AccessoriesSR

3691 Storage BatteriesSR

3692 Primary Batteries, Dry and WetSR

#37 Transportation EquipmentA

376 Guided Missiles and Space Vehicles and Parts SR

#38 Measuring, Analyzing, and Controlling Instruments; Photographic, Medical,

and Optical Goods, Watches and ClocksA

384 Surgical, Medical, and Dental Instruments and Supplies SR

386 Photographic Equipment and SuppliesSR

#39 Miscellaneous ManufacturingA

3996 Linoleum, Asphalted-Felt-Base, and Other Hard Surface Floor Coverings,

Not Elsewhere ClassifiedSR

Uses permitted in the M-1 zone not previously described A

Uses similar to those listed above in this section may be permitted, subject to the approval of the zoning officer. (Ord. 409 § 3 (part), 1991)

17.31.070 Minimum lot area.

Minimum lot area shall be two acres for a manufacturing use as classified by the Standard Industrial Classification Manual, 1987. There is no minimum lot size for other permitted uses. (Ord. 409 § 3 (part), 1991)

17.31.080 Minimum yards.

Uses in the RM-2 zone shall provide yards as follows:

- A. Minimum front yard depth, fifty feet.
- B. Minimum side yard depth, fifty feet.
- C. Minimum rear yard depth, fifty feet.
- D. Boundary setbacks:

1. No industrial use structures in the RM-2 zone shall be located within two hundred fifty feet of the

RM-2 zone boundary that is adjacent to nonzoned lands or residential or publicly zoned lands.

2. Structures for highway-oriented commercial uses may be located within one hundred feet of the RM-2 zone boundary that is adjacent to nonzoned lands or residential or publicly zoned lands. (Ord. 409 § 3 (part), 1991)

17.31.090 Maximum lot coverage.

Lot coverage by buildings shall be limited only as yard requirements dictate but no more than fifty percent of the site shall be occupied by buildings. (Ord. 409 § 3 (part), 1991)

17.31.100 Signs.

On-premise signs shall comply with the provisions of Chapter 17.42 of this title with the following exception: off-premise signs advertising the Silver Bow Industrial Park shall be permitted in compliance with size provisions of Chapter 17.42. (Ord. 409 § 3 (part), 1991)

17.31.110 Development requirements and special standards.

In this zone, uses shall comply with the following requirements and special standards for zoning approval and during subsequent operations. Any inspections or other actions and associated costs necessary to assure that these standards are met are the responsibility of the applicant or his/her consultants.

The following criteria determine appropriateness of a proposed use:

- A. The use shall not create a danger to health or safety in surrounding areas.

- B. The use shall comply with any and all required state and local permits for the disposal, handling, or treatment of hazardous wastes generated by, or on the property with, the use or with requirements of any entity providing sewer or other treatment services.

- C. The use shall meet the lot area, yard, lot coverage, and other requirements of the RM-2 zone or appropriate revisions of these requirements.

D. The use shall not create any noise measured on a neighboring residential or nonzoned property not under common ownership with the property on which the noise is generated which exceeds the following levels, measured in decibels on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication S1.4-1971 (db[A]):

1. When the property on which the noise is measured is in a residential or nonzoned district, a maximum db permitted to occur on a ten-percent-of-the-time basis is an L_{10} value of 60db(A).

E. Earthborne Vibration Standards. No use, operation, or activity, shall cause or create earthborne vibrations in excess of the peak particle velocities prescribed below.

1. Vibration shall be measured at any RM-2 zone boundary line and such measurements shall not exceed a peak particle velocity of 0.2 inches per second. Where vibration is produced as discrete impulses, and such impulses do not exceed a frequency of one hundred per minute, then the peak particle velocity shall not exceed 0.4 inches per second. The instrument used for these measurements shall be a three component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions. The maximum particle velocity shall be the vector sum of the three individual components recorded.

2. The maximum vibration is given as particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$P.V. = 6.28 F \times D$$

P.V. = Particle velocity, inches per second

F = Vibration frequency, cycles per second

D = Single amplitude displacement of the vibration, inches

3. The following sources of vibration are exempt.

a. Transportation vehicles not under the control of the industrial use.

b. Temporary construction activity between 7:00 a.m. and 7:00 p.m.

F. All storage (including storage of waste materials) located on a lot which adjoins a residential zone nonzoned area, shall be located wholly within a building or shall be screened from view from the surrounding properties in adjacent zones. Stored materials shall be screened and fenced to prevent it from blowing onto adjacent land. Similarly, outdoor storage of raw materials shall be located and contained to avoid creation of air pollution or adversely affecting neighboring properties. Storage shall not be permitted in required front yards.

G. All illumination of industrial uses whose lot lines are adjacent to residential uses shall be directed inward to the industrial use.

H. Provisions for Exceptions. There may be instances where it is not possible or practical to meet the development requirements and special standards for an industry or business. These requirements and special standards may be varied subject to special review process determination of appropriateness and findings of no significant impact. (Ord. 409 § 3 (part), 1991)

17.31.120 Landscaping requirements.

Landscaping requirements of Section 17.38.035 through 17.38.080 shall be met in the RM-2 zone for permitted highway-oriented commercial uses only. (Ord. 409 § 3 (part), 1991)

17.31.130 Submittal requirements.

Applicants for permitted uses as listed in Section 17.31.020 shall submit a site plan for review by the zoning officer. An applicant for a use determined to be subject to special review shall submit, as set forth in more detail below, (a) a letter of intent, including a description and statements of how the use will meet the criteria of Section 17.31.110; (b) a site plan and vicinity map, and (c) any other information the applicant believes will support the use application. It is intended that the basic submittal requirements of this chapter will suffice as the basic application and will not have to be replicated. This information shall be used by the zoning officer to determine if the use meets the standards of Section 17.31.110. Additional information may need to be submitted to provide additional essential data in the event of a special review to facilitate zoning commission action. Twelve copies of the following information and materials shall be submitted:

A. Letter of Intent.

1. Proof of ownership or certification from the owner of permission to apply for a zoning certificate. Name, address and telephone number shall be included;

2. Legal description and size of site;

3. A description of the proposed use, estimated time of construction completion, and a statement of how the proposed use will enhance and promote the comprehensive development of the zone, adjoining properties, and the community. The description shall include potential features including the processing or manufacturing to be performed on the site;

4. A description of how the proposed use shall not create a danger to health or safety in surrounding areas. This description shall include a description of any natural or manmade potential health or safety impacts and how they will be mitigated or avoided (water, sewage, floodplain, odors, noise, safety, vibration, etc.);

5. A statement of the availability of public/private utilities and services including the following:

- a. A statement of the anticipated levels of sewage discharge and the proposed disposal method. Will pre-treatment be necessary if the sewage is to be disposed

of at a central treatment location? Will the facility have adequate capacity?

- b. A statement on the level of expected water needs and the source of supply and capacity of the system. Have state permits been applied for or when are they anticipated?

- c. A statement on the source of police and fire protection and the capacity of such sources to supply sufficient services or equipment.

- d. Anticipated traffic volumes and the adequacy of the road system to accommodate the traffic or the proposed improvements and construction schedule to satisfy the anticipated demand.

6. A statement of how the use shall comply with any and all required state and local permits for the disposal, handling, or treatment of hazardous wastes generated by, or on the property with, the use or with requirements of any entity providing sewer or other treatment services;

7. A statement discussing potential noise levels caused by the operation of the proposed use. The use shall not create any noise measured on a neighboring residential or nonzoned property not under common ownership with the property on which the noise is generated which exceeds an L_{10} value of 60 db(A) measured in decibels on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication S1.4-1971 (db[A]). The L_{10} value shall be specifically stated;

8. A statement discussing potential ground vibrations caused by the operation of the proposed use. The use shall not cause ground vibration on a neighboring residential or nonzoned property not under common ownership with the property on which the vibration is generated with peak particle velocities larger than 0.2 inches per second at the RM-2 boundary. The estimated ground vibration shall be specifically stated;

9. A statement and site plan depicting that all storage (including storage of waste materials) on a lot which adjoins a residential zone or nonzoned area meets the following criteria:

- a. It shall be located wholly within a building or shall be screened from view from the surrounding properties in said adjacent zone,

- b. It shall not occur in required front yards,
 - c. If storage of waste occurs, it shall be screened and fenced to prevent it from blowing onto adjacent land,
 - d. Outdoor storage of raw materials shall be located and contained to avoid creation of air pollution or adversely affecting neighboring properties;
10. A statement (also depicted on the site plan) that all illumination of industrial uses whose lot lines are adjacent to residential uses shall be directed inward to the industrial use.

B. Site Plan(s) and Vicinity Map.

- 1. Site plan(s) depicting the following information:
 - a. Scale: not less than one inch equals two hundred feet; contours at two-foot intervals for properties with average slopes less than or equal to ten percent, or five-foot intervals for properties with average slopes greater than ten percent; north arrow,
 - b. Location on the site of all existing and proposed buildings, parking and open storage areas,
 - c. Setback lines, rail access, utility lines, roadway and easements,
 - d. Drainage plans (schematic) including projected off-site and on-site storage,
 - e. Site features such as water courses, soils, characteristics, groundwater levels and topography;
 - 2. A vicinity map locating the proposed use within the zoning district.
- C. Any other information the applicant believes will support the use application. (Ord. 409 § 3 (part), 1991)

17.31.140 Evaluation of applications by zoning officer.

Site plans submitted for permitted uses shall be reviewed for compliance with the standards of Sections 17.31.010 through 17.31.090, and all applicable requirements of Title 17. All new, nonlisted industrial use applications shall be evaluated by the zoning officer for compliance with the requirements and special standards of Section 17.31.110.

A. The zoning officer shall review submitted information and materials and determine if the proposed use complies with the standards of this chapter.

B. The proposal and supporting information shall be referred to the following entities where applicable:

- 1. Environmental/safety issues—fire marshall, fire district, disaster and emergency services, sheriff, Butte-Silver Bow department of health;
- 2. Transportation system—Butte-Silver Bow public works department;
- 3. Utilities—electrical, natural gas, and rail service providers;
- 4. Air quality—Butte-Silver Bow department of health, Montana Air Quality Bureau;
- 5. Sewage, water—Butte-Silver Bow department of health, or applicable sewage/water district;
- 6. Other state, federal, and local government agencies, as necessary.

The zoning officer shall have five work days to review application materials and information for completeness. Upon receipt of a complete application, the zoning officer shall send the application to the above entities as applicable. These entities shall review and return their comments to the zoning officer within five workdays. These entities may request a five workday extension to complete their review. Upon receipt of comments, the zoning officer shall have five workdays to provide a record of decision based upon the review criteria of Section 17.31.110. In no case, unless agreed to by the applicant, may the comment and review period for complete applications be extended beyond fifteen workdays. (Ord. 409 § 3 (part), 1991)

17.31.150 Administrative decision process.

A. If the zoning officer's determination is that the site plan submitted for other than industrial uses complies with the standards of Sections 17.31.010 through 17.31.090, Section 17.31.110 and all applicable requirements of Title 17, the zoning officer shall issue a zoning certificate.

B. If the zoning officer's determination is that a proposed industrial use meets the standards of this title, the zoning officer shall cause to have published in a newspaper of general circulation in the area public

notice of its determination of compliance. The zoning officer shall provide notice of its determination to the applicant. A majority of the zoning commission, of the council of commissioners, or twenty percent of the electors in the Ramsay voting district shall have the right, within ten days of the publication of the notice, to request a special review of the use proposal by the zoning commission for its recommendation to the council of commissioners. The appeal group must provide findings which state how the proposed use does not meet the provisions of Section 17.31.110.

C. If the zoning officer's determination is that due to the nature and complexity of the use that there are issues identified in Section 17.31.110 which need further review and public input, the zoning officer may require the applicant to submit an application for special review.

D. If the zoning officer's determination is that the proposed use does not meet the standards of this chapter, the applicant may submit the use application within thirty days to the zoning commission for a public hearing for special review. (Ord. 409 § 3 (part), 1991)

17.31.160 Special review process.

A. General. Pursuant to provisions of 17.31.150, applications for nonlisted industrial uses are subject to the special review process. Although the RM-2 zoning district is intended for the types of uses specified in Section 17.31.020, there may be some permitted uses that utilize or store hazardous material or produce by-products or final products which may have potentially hazardous impacts associated with these activities so as to need special review to ensure their proper placement. In addition, the location, nature of a proposed commercial or industrial use, the character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, all may indicate that the circumstances of the development should be individually reviewed.

B. Special Review Application Fee Required. The applicant shall provide a two hundred fifty dollar filing fee upon submittal of an application for special review.

C. Zoning Officer Action. The zoning officer, upon request or determination of the need for special review, shall do the following:

1. Consult with other departments and agencies as necessary to fully evaluate the impact of the use contemplated under the special review application upon public facilities and services;

2. Study each application with reference to its appropriate needs and effect on existing and proposed land uses and its relationship to the master plan and the specific provisions of this chapter;

3. Place a notice of time, date, and place of the public hearing in the legal newspaper, fifteen days in advance of the date of the public hearing;

4. Notify the applicant or agent of the time, date, and place of the public hearing, a minimum of five days in advance of that date;

5. Place notice of the public hearing on or near the property subject to the special review a minimum of fifteen days in advance of the public hearing; and

6. Report his or her findings, conclusions, and recommendation to the zoning commission.

D. Zoning Commission Action. The zoning commission shall consider each special review application in accordance with the provisions of this chapter and hold a public hearing at their next regular meeting for which proper notice may be given. The commission shall:

1. Continue the hearing for no more than days unless an extension is approved by the applicant; or

2. Recommend approval, conditional approval, or denial of the application for special review and submit its recommendation and written findings of fact to the council of commissioners within fifteen days of the date of their recommendation.

Further the zoning commission shall consider each special review application in accordance with the requirements and specific standards of Section 17.31.110 and may impose modifications or conditions concerning these requirements and specific standards and the following criteria:

1. The use sought will enhance and promote the comprehensive development of the zone, adjoining properties, and the community.

2. The use shall not create a burden upon public utilities and services.

E. Council of Commissioners Action. The council of commissioners, within thirty days of receipt of the zoning commission's recommendation shall:

1. Approve, conditionally approve, or deny the application for special review based upon written findings thereof; or

2. Schedule a public hearing for the review of such application. Notice of the hearing shall be published at least seven days prior to the date set for hearing; and

3. Approve, conditionally approve, or deny the application for special review based upon written findings thereof within a reasonable time after the public hearing not to exceed thirty days. (Ord. 409 § 3 (part), 1991)

Chapter 17.32

E-1 PUBLIC COLLEGE ZONE

Sections:

17.32.010	Primary intended use.
17.32.020	Permitted uses.
17.32.030	Building height limits.
17.32.040	Minimum lot area.
17.32.050	Minimum lot width.
17.32.060	Minimum front yard depth.
17.32.070	Minimum side yard depth.
17.32.080	Minimum rear yard depth.
17.32.090	Parking.
17.32.100	Landscaping.

17.32.010 Primary intended use.

The E-1 zone is intended primarily to accommodate a public college for educational and research purposes. (Ord. 53 § 150-1, 1978)

17.32.020 Permitted uses.

Hereafter in the E-1 zone no building or structure shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any other than the following unless otherwise provided in this title:

1. Classroom buildings;
2. Libraries;
3. Physical education buildings;
4. Athletic fields;
5. Heating plants;
6. Student union buildings;
7. Planetariums;
8. Offices for student housing administration, faculty and staff;
9. Parking areas;
10. Research facilities;
11. Conversions as permitted under Section 17.38.110. (Ord. 53 § 150-2, 1978)

17.32.030 Building height limits.

Building height limits shall be as follows:

- A. Eighty feet;
- B. Forty feet within the following described area: Beginning at the center of the intersection of Western Avenue and Park Street, then proceeding westerly to the point of intersection with a projected southerly extension of the west boundary of Lot 10 of Block 13 of the Fairview Addition to the city of Butte, then proceeding northerly to the centerline of the alley located in Block 10 of the Fairview Addition, then proceeding easterly to the centerline of Western Avenue, then proceeding southerly to the point of beginning. (Ord. 53 § 150-3, 1978)

17.32.040 Minimum lot area.

There shall be no minimum lot area requirement. (Ord. 53 § 150-4, 1978)

Chapter 17.34

AIRPORT ZONING

Sections:

- 17.34.010 Airport zones—Established.**
- 17.34.020 Height limits.**
- 17.34.030 Use restrictions.**
- 17.34.040 Nonconforming uses.**
- 17.34.050 Permit requirements.**
- 17.34.060 Enforcement.**

17.34.010 Airport zones—Established.

In order to carry out the provision of this title, there are created and established certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones, and conical zones as they apply to the Bert Mooney-Silver Bow County Airport. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are established and defined as follows:

A. Utility Runway Visual Approach. The inner edge of this approach zone coincides with the end of the primary surface and is five hundred feet wide for runway 29 and two hundred fifty feet for runways 2 and 20. The approach zone for runways 2, 20 and 29 expands outward uniformly to a width of one thousand two hundred fifty feet at a horizontal distance of five thousand feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

B. Utility Runway Nonprecision Instrument Approach Zone. The inner edge of this approach zone coincides with the end of the primary surface and is five hundred feet wide. The approach zone for runway 11 expands outward uniformly to a width of two thousand feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

C. Runway Larger Than Utility Visual Approach Zone. The inner edge of this approach zone coincides with the end of the primary surface and is one thousand feet wide. The approach zone for runway

33 expands outward uniformly to a width of one thousand five hundred feet at a horizontal distance of five

17.32.050 Minimum lot width.

There shall be no minimum lot width requirement. (Ord. 53 § 150-5, 1978)

17.32.060 Minimum front yard depth.

Minimum front yard depth shall be as follows:

A. One foot per foot of height, with a minimum of twenty-five feet except as provided in subsection B of this section.

B. The minimum front yard depth for any structure facing Park Street shall be twenty-five feet. (Ord. 53 § 150-6, 1978)

17.32.070 Minimum side yard depth.

The minimum side yard depth for any structure abutting residential property shall be one foot per foot of height, with a minimum of twenty-five feet. (Ord. 53 § 150-7, 1978)

17.32.080 Minimum rear yard depth.

The minimum rear yard depth for any structure abutting residential property shall be one foot per foot of height, with a minimum of twenty-five feet, unless the rear of the structure faces upon Park Street, in which case the minimum rear yard depth shall be twenty-five feet. (Ord. 53 § 150-8, 1978)

17.32.090 Parking.

Parking requirements shall be as follows:

A. One space for every three students and employees;

B. For dormitories or similar structures, one and one-half spaces for every two people. (Ord. 53 § 150-9, 1978)

17.32.100 Landscaping.

When abutting a residential use, there shall be a nine-foot landscaped area. (Ord. 53 § 150-10, 1978)

thousand feet from the primary surface. Its centerline is the continuation of the runway.

D. Precision Instrument Runway Approach Zone. The inner edge of this approach zone coincides with the end of the primary surface and is one thousand feet wide. The approach zone for runway 15 expands outward uniformly to a width of sixteen thousand feet at a horizontal distance of fifty thousand feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

E. Transitional Zones. These zones are established as the area beneath the transitional surfaces. These surfaces extend outward and upward at ninety-degree angles to a runway centerline extended at a slope of seven feet horizontally or each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional zones for those portions of the precision approach zones which project through and beyond the limits of the conical surface extend a distance of five thousand feet measured horizontally from the edge of the approach zones and at ninety-degree angles to the extended runway centerline.

F. Horizontal Zone. The horizontal zone is established by swinging arcs of ten thousand feet radii from the center of each end of the primary surface of runways 15 through 33, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

G. Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of four thousand feet. The conical zone does not include the precision instrument approach zones and the transitional zones. (Ord. 53 § 160-1, 1978)

17.34.020 Height limits.

Except as otherwise provided in this title, no structure or tree shall be erected, altered, allowed to grow, or be maintained in any zone created by this title to a height in excess of the applicable height limit established in this section for such zone. Such applicable height limitations are established for each of the zones in question as follows:

A. Utility Runway Visual Approach Zone. Slopes upward twenty feet horizontally for each foot vertically, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand feet along the extended runway centerline.

B. Utility Runway Nonprecision Instrument Approach Zone. Slopes upward twenty feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand feet along the extended runway centerline.

C. Runway Larger Than Utility Visual Approach Zone. Slopes upward twenty feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand feet along the extended runway centerline.

D. Precision Instrument Runway Approach Zone. Slopes upward fifty feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten thousand feet along the extended centerline; thence slopes upward forty feet horizontally for each foot vertically to an additional horizontal distance of forty thousand feet along the extended runway centerline.

E. Transitional Zones. Slopes upward and outward seven feet horizontally for each foot vertically beginning at the side of and at the same elevation as the primary surfaces and the approach zones, and extending to a height of one hundred fifty feet above the airport elevation, which airport elevation is five thousand five hundred fifty-three feet above mean sea level. In addition to the foregoing, there are established height limits sloping upward and outward seven feet horizontally for each foot vertically beginning at the sides of

and at the same elevation as the approach zones, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, height limits sloping upward and outward seven feet horizontally for each foot vertically shall be maintained beginning at the sides of and at the same elevation as precision instrument runway approach surface, and extending to a horizontal distance of five thousand feet measured at ninety-degree angles to the extended runway centerline.

F. Horizontal Zone. One hundred and fifty feet above the airport elevations or a height of five thousand seven hundred three feet above mean sea level.

G. Conical Zone. Slopes upward and outward twenty feet horizontally for each foot vertically beginning at the periphery of the horizontal zone and at one hundred and fifty feet above the airport elevation and extending to a height of three hundred and fifty feet above the airport elevation.

H. Excepted Height Limitations. Nothing in this title shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a height of up to fifty feet above the surface of the land, except in approach zones within two thousand five hundred feet of the ends of the primary surfaces.

Where an area is covered by more than one height limitation, the more restrictive limitation shall prevail. (Ord. 53 § 160-2, 1978)

17.34.030 Use restrictions.

Notwithstanding any other provisions of this title, no use may be made of land or water within any zone established by this title in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport or otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft intending to use the airport. (Ord. 53 § 160-3, 1978)

17.34.040 Nonconforming uses.

A. Regulations Not Retroactive. The regulations prescribed in this chapter shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of the ordinance codified in this title, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which has begun prior to the effective date of the ordinance codified in this title, and is diligently prosecuted.

B. Marking and Lighting. Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the airport manager to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of Butte-Silver Bow, state of Montana. (Ord. 53 § 160-4, 1978)

17.34.050 Permit requirements.

A. Application for Permit. Each application for a permit shall be submitted to the zoning officer, and shall indicate the purpose for which the permit is desired, with sufficient particulars to determine whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted, but the permit shall not be granted for any use, structure or tree which would violate any airport zone.

B. Future Uses. No material change shall be made in the use of land and no structure or tree, exceeding twenty-five feet in height above the surface of the land in approach zones within twenty-five hundred feet of the ends of the primary surfaces, or exceeding fifty feet in height above the surface of the land in other areas, shall be erected, altered, planted, or otherwise established or allowed to exist in any zone created by

this chapter unless a permit therefor has been applied for and granted.

C. Existing Uses. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of the ordinance codified in this title, or any amendments thereto, or than it is when the application for a permit is made.

D. Nonconforming Uses Abandoned or Destroyed. Whenever the zoning officer determines that a nonconforming tree or structure has been abandoned or more than eighty percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limits or otherwise deviate from the zoning regulations.

E. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this title, may apply to the board of adjustment for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship, and relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this title.

F. Hazard Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this title and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit Butte-Silver Bow, state of Montana, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard. (Ord. 53 § 160-5, 1978)

17.34.060 Enforcement.

It shall be the duty of the zoning officer to administer and enforce the regulations prescribed in this chapter. Applications for permits or variances shall be made to the zoning officer upon forms to be furnished by him. Applications for permits shall be acted upon within a reasonable time. Applications for action by the zoning commission or board of adjustment shall be forthwith transmitted to the zoning commission or board of adjustment by the zoning officer. The zoning officer shall not be or include any member of the zoning commission or board of adjustment. (Ord. 53 § 160-6, 1978)

Chapter 17.35

RAMSAY ZONING

Sections:

17.35.010	Preamble.
17.35.020	Interpretation— Purpose—Conflict.
17.35.030	Districts and district boundaries.
17.35.040	General regulations.
17.35.050	Nonconforming use of land and buildings.
17.35.060	Enforcement.
17.35.070	Board of adjustment.
17.35.080	Changes and amendments.
17.35.090	RR rural zone.
17.35.100	RR-1 single- family residence zone.
17.35.110	RR-2 mobile home zone.
17.35.120	RC-1 general commercial zone.
17.35.130	RC-2 commercial zone.
17.35.140	Off-street parking.

**17.35.150 Display signs and
 outdoor advertising.**

**17.35.160 Exceptions and
 modifications.**

17.35.170 Definitions.

17.35.010 Preamble.

A chapter to incorporate the county planning and zoning district for the community of Ramsay within the zoning regulations and zoning area adopted by the city and county of Butte-Silver Bow and providing for the administration, enforcement and amendment thereof in accordance with the Montana Code Annotated, as amended. (Ord. 457 § 1 (part), 1993)

**17.35.020 Interpretation—Purpose—
 Conflict.**

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare. Where this chapter imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or easements, covenants or agreements, the provisions of this chapter shall control. (Ord. 457 § 1 (part), 1993)

17.35.030 Districts and district boundaries.

A. For the purpose of this chapter, the area lying within the county planning and zoning district of Ramsay, which planning and zoning district was created by the board of county commissioners of the former government of Silver Bow County, Montana, one of the predecessors of the local government of the city and county of Butte-Silver Bow, is divided into the following zoning districts:

1. RR rural zone;
2. RR-1 single-family residence zone;
3. RR-2 mobile home zone;
4. RC-1 general commercial zone;

5. RC-2 commercial zone.

B. Boundaries of these districts are established as shown on the official Ramsay planning and zoning district map attached to the ordinance codified in this chapter and on file in the office of the clerk. The map is made a part of this chapter by this reference.

C. Unless otherwise indicated on the zoning map, the zoning district boundaries are lot lines, the center-lines or right-of-way lines of the streets or alleys or specified distance therefrom, railroad right-of-way lines as they existed at the time of enactment of this chapter.

D. Where uncertainty exists as to the boundaries of the zoning districts or when the street or property existing on the ground is at variance with that shown on the official Ramsay planning and zoning district map, the board of adjustment, upon written application or its own motion, shall determine the location of such boundaries. (Ord. 457 § 1 (part), 1993)

17.35.040 General regulations.

A. No land, building, structure or premises shall hereafter be used, and no building, structure or part thereof, shall be located, erected, moved, reconstructed, extended, enlarged or altered except in conformity with the regulations in this chapter specified for the district in which it is located.

B. Every part of a required yard shall be open from its lowest point to the sky unobstructed.

C. On any corner lot in which a front yard is required by this chapter, no wall, fence, or other structures shall be erected and no hedge or shrub exceeding three feet above the street grade shall be maintained within the triangular area formed by the intersecting property lines nearest the streets and a straight line joining said property lines at points which are twenty-five feet distance from the point of intersection, along the property lines. (Ord. 457 § 1 (part), 1993)

17.35.050 Nonconforming use of land and buildings.

A. Any use, building, or structure existing at the time of enactment of this chapter may be continued even though such use, building, or structure may not conform with provisions of this chapter for the district in which it is located.

B. No nonconforming use of a building, structure or land shall be changed, extended, reconstructed, enlarged, intensified or structurally altered unless:

1. The use thereof is changed to a use permitted in the district in which such building or land is located; or

2. Authority is granted by the board of adjustment.

C. When a nonconforming use has been discontinued for a period of six months such use shall not thereafter be reestablished. (Ord. 457 § 1 (part), 1993)

17.35.060 Enforcement.

A. This chapter shall be enforced by the Butte-Silver Bow zoning enforcement officer or his designated representative.

B. Before any land, building, or premises, or part thereof, may hereafter be constructed, erected, changed, relocated or converted, wholly or in part, in its use or structure, a location permit shall be submitted to the zoning enforcement officer to the effect that such building, and the use proposed therefor, conforms to the provisions of this chapter.

C. No fee shall be required for obtaining a location permit.

D. Any person, firm or corporation owning, controlling or managing any building or premises wherein or whereupon there shall be placed or there exists anything in violation of the provisions of this chapter; or any person, firm, or corporation who shall assist in the commission of any violation of these provisions, or who shall build contrary to the plans and specifications submitted to and approved by the zoning enforcement officer; or any firm or corporation who shall omit, neglect or refuse to do any act required in these provisions shall be guilty of a misdemeanor and subject to a fine of not less than twenty-five dollars

nor more than three hundred dollars for each offense. Each day during which a violation continues shall constitute a separate offense punishable hereunder.

E. Dwelling units shall not be relocated into any neighborhood in an RR, RR-1 or RR-2 district where the assessed value of the existing dwelling units, located in the same zoning district and within a one block radius of the proposed site, or four hundred feet whichever is greater, is predominately in excess of one hundred fifty percent of the current assessed value of the dwelling unit proposed for relocation. (Ord. 457 § 1 (part), 1993)

17.35.070 Board of adjustment.

A. The board of adjustment shall consist of the seven member Butte-Silver Bow zoning board of adjustment.

B. The board of adjustment shall adopt rules to govern its proceedings which rules may not be inconsistent with this title or the laws of the state of Montana. All requests for variances or other rulings by the board of adjustment shall appear in a newspaper of general circulation within the city and county of Butte-Silver Bow, Montana, seven days prior to the hearing. The board shall keep minutes of its proceedings, showing the vote of each member upon each question and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

C. Appeals to the board of adjustment may be taken by any person, officer, department, board or bureau of the municipality affected by any decision of the zoning enforcement officer.

D. All applications for variances or rulings from the board of adjustment shall be given a public hearing within one month of the receipt of the application or ruling request.

E. The board of adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the zoning enforcement officer in the enforcement of this chapter or this title;

2. To authorize such variances from the terms of this title as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the title will result in an unnecessary hardship.

F. The concurring vote of four members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of any such administration official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to affect any variance or variation from this title. (Ord. 457 § 1 (part), 1993)

17.35.080 Changes and amendments.

A. The zoning district boundaries, and other regulations and restrictions in this title may be amended, supplemented, changed, modified, or repealed by the passage of an appropriate title by the Butte-Silver Bow council of commissioners according to the procedures outlines in this section.

B. Amendments may be initiated by the Butte-Silver Bow zoning commission or by an application of one or more owners of property affected by the proposed amendment. The application shall be filed with the zoning enforcement officer on a form provided therefor:

1. Each application by a property owner shall be accompanied by the appropriate filing fee, no part of which is refundable to the applicant;

2. The application for an amendment shall be accompanied by drawings and any data necessary to fully determine the effect such an amendment would have on adjacent property and the community;

3. The zoning enforcement officer shall be required to obtain the names and mailing addresses of all property owners within two hundred feet of the exterior boundaries of the area proposed to be altered and a written notice of the request for a change shall be sent by certified letter to each property owner;

4. A public hearing shall be held within one month of the receipt of an application for an amendment of this title. The zoning enforcement officer shall cause a notice of such public hearing to be published

at least once in a newspaper of general circulation within Butte-Silver Bow County at least fifteen days prior to the date of the public hearing and shall post a notice of the hearing in at least three public places within the affected area. Such notice shall fix the time and place for such hearing and shall describe each application for amendment of this title in general terms;

5. At the conclusion of the public hearing, the Butte-Silver Bow council of commissioners may approve amendments to this title. (Ord. 457 § 1 (part), 1993)

17.35.090 RR rural zone.

A. Permitted uses:

1. Single-family dwellings;
2. Agriculture;
3. Ranching;
4. Forestry;
5. Essential public utility buildings and facilities;
6. Churches and schools and hospitals;
7. Public and private recreational parks, playgrounds, and golf courses;
8. Water, land and wildlife preserve and conservation areas, appurtenances and structures;
9. Cemeteries, mausoleum and crematories; provided that any mausoleum and crematory shall be distant at least two hundred feet from adjacent property and street lines;
10. Commercial swimming pools, golf courses, and similar uses when authorized by the board of adjustment.

B. Accessory uses:

1. Any use customarily accessory and incidental to a permitted use.

C. District regulations:

1. Zoning district regulations for the RR rural zone are provided in Table Number 1. (Ord. 457 § 1 (part), 1993)

Table #1 PRIMARY STRUCTURE DEVELOPMENT STANDARDS				
		L		

Zoning Districts	Lot Area Minimum (Square Feet)	Lot Width At Front Building Line Minimum (Feet)	Lot Depth Minimum (Feet)	Yards Minimum (Feet)			Height Maximum	
				Front	Rear	Side		
					Single Frontage Lot	Double Frontage Lot	Interior	Exterior (Corner Lot)
								Stories
								Feet
							Abu	Abu

								tt i n g S i d e Y a r d	tt i n g R e a r Y a r d		
R R u r a l	1 A c r e	1 5 0	1 0 0	5 0	3 5	3 5	1 5	3 5	1 5	2 ½	3 5
R - 1	7 5 0 0	6 0	1 2 5	2 0	2 0	2 0	1 0	1 0	1 0	2 ½	3 5
R - 2 M o b i l e H o m e	7 5 0 0	6 0	1 2 5	2 0	2 0	1 0	1 0	1 0	1 0	2 ½	3 5

Tab Accessory Structure S			
Zoning District	Front	Rear Adjacent to Alley	Side Adjacent to
R	50 Feet	15 Feet	15 Feet
R-1	50 Feet	3 Feet*	10 Feet

			17.35.120 RC-1 general commercial zone.		setba large feet.
R-2	50 feet	3 Feet* *To the eave.	A. Permitted uses: 1. Uses permitted in RR-1 districts. No temporary buildings or mobile homes shall be used for dwelling purposes; 2. Local retail businesses such as the following: a. Antique shop, b. Amusement enterprises such as skating rinks, theaters, etc., c. Bakery whose products are sold only at retail, d. Barber shop or beauty parlor, e. Bowling alleys, f. Candy shop, g. Clothes cleaning and laundry pickup, h. Dairy store-retail, i. Drugstore, j. Greenhouses, k. Hardware store, l. Paint store, m. Radio and television—sales and repair, n. Truck depot and repair shop facilities. B. Accessory uses: 1. Any use customarily accessory and incidental to a permitted use. C. Building height limit: 1. Thirty-five feet or three and one-half stories. D. Minimum lot area: 1. No requirement. E. Minimum lot width: 1. One hundred-foot frontage required. F. Minimum front yard depth: 1. Twenty-five feet required. G. Minimum side yard: 1. No side yard required except when abutting a residential district; 2. When abutting a residential district a twenty-five-foot side yard shall be required. H. Minimum rear yard: 1. Twenty-five feet required. (Ord. 457 § 1 (part), 1993)	10 Feet 3 Feet 18 Feet	Mini parki feet acce or all

17.35.100 RR-1 single-family residence zone.

- A. Permitted uses:
1. One family dwelling;
 2. Churches and accessory buildings;
 3. Museums, libraries, parks, playgrounds or community centers;
 4. Golf courses, country clubs, private swimming pools, tennis courts, and similar noncommercial uses;
 5. Hospitals and nursing homes;
 6. Public and parochial schools and colleges for academic instruction.
- B. Accessory uses:
1. Any use customarily accessory and incidental to a permitted use;
 2. Private garage which may include living quarters of domestic servants employed on the premises.
- C. District regulations:
1. Zoning district regulations for the RR-1 zone are provided in Table Number One. (Ord. 457 § 1 (part), 1993)

17.35.110 RR-2 mobile home zone.

- A. Permitted uses:
1. Uses permitted in RR-1 district;
 2. Mobile homes;
 3. Single-family dwellings.
- B. Accessory uses:
1. Any use customarily and incidental to a permitted use.
- C. District regulations:
1. Zoning district regulations for the RR-2 district are provided in Table Number One. (Ord. 457 § 1 (part), 1993)

- theaters, etc.,
- c. Bakery whose products are sold only at retail,
 - d. Barber shop or beauty parlor,
 - e. Bowling alleys,
 - f. Candy shop,
 - g. Clothes cleaning and laundry pickup,
 - h. Dairy store-retail,
 - i. Drugstore,
 - j. Greenhouses,
 - k. Hardware store,
 - l. Paint store,
 - m. Radio and television—sales and repair,
 - n. Truck depot and repair shop facilities.
- B. Accessory uses:
1. Any use customarily accessory and incidental to a permitted use.
- C. Building height limit:
1. Thirty-five feet or three and one-half stories.
- D. Minimum lot area:
1. No requirement.
- E. Minimum lot width:
1. One hundred-foot frontage required.
- F. Minimum front yard depth:
1. Twenty-five feet required.
- G. Minimum side yard:
1. No side yard required except when abutting a residential district;
 2. When abutting a residential district a twenty-five-foot side yard shall be required.
- H. Minimum rear yard:
1. Twenty-five feet required. (Ord. 457 § 1 (part), 1993)

17.35.130 RC-2 commercial zone.

- A. Permitted uses:
 - 1. Uses permitted in RC-1 districts;
 - 2. Storage warehouse;
 - 3. Office building;
 - 4. Mobile home.
- B. Building height limit:
 - 1. Thirty-five feet or three and one-half stories.
- C. Minimum lot width:
 - 1. Minimum lot width of sixty feet is required.
- D. Minimum lot area:
 - 1. Minimum lot area of one half acre is required.
- E. Minimum front yard depth:
 - 1. Twenty-five-foot frontage required.
- F. Minimum side yard:
 - 1. Ten-foot minimum required.
- G. Minimum rear yard:
 - 1. Twenty-five-foot minimum required. (Ord. 457 § 1 (part), 1993)

17.35.140 Off-street parking.

In all districts, in connection with every business, commercial, industrial, recreational, institutional and residential use, space for parking and storage of vehicles shall be provided in accordance with the following schedule:

- A. Churches—one space for each five seats;
- B. Dwellings—one space for each family or living unit;
- C. Commercial stores—one space for every four hundred square feet of floor area;
- D. Industrial—one space for every two employees. (Ord. 457 § 1 (part), 1993)

17.35.150 Display signs and outdoor advertising.

A. Purpose. The intent of this section shall be to coordinate type, placement and physical dimensions of signs within the different land use zones. The use of signs is regulated according to zone. The placement and physical dimension of signs are regulated primarily by length of street frontage and zoning district. No sign shall be permitted as a main or accessory use except in accordance with the provisions of this title.

1. Signs in residential districts pertaining to home occupations or a home office are permitted provided:

a. The sign does not exceed eight square feet in area, and

b. The sign does not emit any flickering, flashing or glaring light, and

c. The sign shall conform to all setbacks lines required of the principal building.

2. Signs in general commercial and industrial districts are permitted provided:

a. The sign does not exceed two square feet in area for each lineal foot of the property, and

b. The sign shall conform to all setbacks lines required of the principal building. (Ord. 457 § 1 (part), 1993)

17.35.160 Exceptions and modifications.

A. Front Yards. In any residential district where front yards are required, whenever the average depth of at least two existing front yards on lots within one hundred feet of the lot in question and within the same block is less or greater than the least front yard depth prescribed elsewhere in this title, the required depth of the front yard on such lot shall be modified. In such cases, this shall not be less than the average depth of the existing front yards on the two lots immediately adjoining; provided, however, that the depth of a front yard on any lot shall be at least ten feet; and provided further that in no event shall the depth of a front yard of a corner lot be less than twenty-five feet.

B. Fences, Walls and Hedges.

1. Barbed-wire fences or fences or walls having wire or metal prongs or spikes or cutting points or edges of any kind whatsoever, shall be prohibited.

2. Fences not exceeding at any point six feet in height above the elevation of the surface of the ground at such point may be located in any yard with the exception of corner lots which are regulated by Section 17.35.040(C). (Ord. 457 § 1 (part), 1993)

17.35.170 Definitions.

A. Interpretation of Language. Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of the title. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular; the word “building” shall include the word “structure”; the word “used” shall include arranged, designed, constructed, altered, converted, rented, leased or “intended to be used” and the word “shall” is mandatory and not directory:

“Accessory or auxiliary use or structure” means a use or structure subordinate to the principal use of a building or to the principal use of land and which is located on the same lot serving a purpose customarily incidental to the use of the principal building or land use.

“Alley or lane” means a public or private way not more than thirty feet wide affording generally secondary means of access to abutting property and not intended for general traffic circulation.

“Board” means the Butte-Silver Bow zoning board of adjustment.

“Building” means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yard requirements as hereinafter provided.

“Building, height of” means the vertical distance from the average ground level at the front wall or the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, or gambrel roofs.

“Building or setback line” means the line outside the right-of-way of a street beyond which no building or part thereof shall project, except as otherwise provided by this title.

“Clinic” means a place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room nor kept overnight on the premises.

“Court” means an open unoccupied and unobstructed space, other than a yard on the same lot with a building or group of buildings, which is enclosed on three or more sides.

“Dwelling” means any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer, motor home, mobile home, boarding or rooming house, hotel or motel.

“Dwelling, single-family” means a building designed for or used exclusively for residence purposes by one family or housekeeping unit.

“Family” means one or more individuals related by blood, or marriage or adoption, or not more than five individuals who are not so related, living together as a single housekeeping unit in a dwelling, and maintaining and using the same and certain other housekeeping facilities in common, and having such meals as they may prepare and eat together at home.

“Frontage” means that boundary of a lot which is along an existing or dedicated public street, or where no public street exists, is along a public way.

“Garage” means a detached accessory building or a portion of a principal building used or intended for use by the occupants of the premises for the storage of self-propelled passenger vehicles or trailers.

“Home occupation” means an occupation or a profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit, and is carried on by a member of the family residing in the dwelling unit, and is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

“Lot” means a piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or

utilized for a principal use and uses accessory thereto, together with such open spaces as required by this title and having frontage on a public street.

“Mobile home” means a detached single-family dwelling unit with all of the following characteristics:

A. Designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

B. Designed to be transported after fabrication on its own wheels, or on a flatbed truck or other trailer or on detachable wheels.

C. Designed as a complete dwelling suitable for occupancy upon arrival on the site except for minor and incidental unpacking and assembly operations, located on foundation supports, connected to utilities, and the like.

“Nonconforming use” means a building, structure or premises legally existing and/or used at the time of adoption of this title, or any amendment thereto, and which does not conform with the use regulations of the district in which located. Any such building, structure or premises conforming in respect to use but not in respect to height, area, yards or courts, floor area or distance requirements from more restricted districts or uses, shall not be considered a nonconforming use.

“Parking spaces” means a permanently surfaced area of not less than two hundred square feet, either within a structure or in the open exclusive of driveways or access drives, for the parking of motor vehicles.

“Structural alteration” means any change in the structural members of a building, such as walls, columns, beams or girders.

“Structure” means anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

“Yard” means an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title.

“Yard, front” means the yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof,

other than the projection of the usual steps or unenclosed porches. The narrow frontage on a corner lot.

“Yard, rear” means a yard extending across the full width of the lot between the most rear main building and the rear lot line, the depth of the required rear yard shall be measured horizontally from the nearest point of the rear lot line toward the nearest part of the main building.

“Yard, side” means a yard between a main building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of a main building.

“Zoning commission” means the Butte-Silver Bow zoning commission.

“Zoning enforcement officer” means the Butte-Silver Bow zoning enforcement officer or his designated representative. (Ord. 457 § 1 (part), 1993)

Chapter 17.36

GENERAL REGULATIONS

Sections:

17.36.010	Conformance required.
17.36.020	Additional uses subject to board of adjustment determination.
17.36.030	Open space.
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17.36.041	Vision clearance triangle—Driveways and alleys.
17.36.042	Fence height—Residential zones.
17.36.043	Fence height—Sloped lots.
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- 17.36.046 Barbed wire fences—Commercial and industrial zones.**
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- 17.36.070 Utility structures.**
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- 17.36.090 Solar collectors, satellite dish antennas and similar accessory structures.**
- 17.36.100 Fences.**
- 17.36.110 Historic building.**

17.36.010 Conformance required.

Except as specified in this title, no land, building, structure or premises shall hereafter be used, and no building, structure, or part thereof, shall be located, erected, moved, reconstructed, extended, enlarged or altered except in conformity with the regulations specified in this title for the zone in which it is located; such regulations include but are not limited to, the following: the use of buildings, structures or land, including performance standards for the control of any “dangerous and objectionable elements”, as defined in this title, in connection with such use; the height, size, dimensions of buildings or structures; the size or dimensions of lots, yards and other open spaces surrounding buildings; the provision, location, size, improvement and operation of off-street parking, loading and unloading spaces. (Ord. 53 § 20-5 (A), 1978)

17.36.020 Additional uses subject to board of adjustment determination.

Uses, other than those specifically mentioned in this title as permitted uses, may also be allowed in each of the zones; provided, that in the judgment of the board, as evidenced by resolution of record, such other uses are of similar character to those mentioned and will have no adverse influence or no more adverse influence on adjacent properties or the neighborhood or the community than the permitted uses specifically mentioned for the zone. (Ord. 53 § 20-5(B), 1978)

17.36.030 Open space.

Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for the ordinary projections of sills, belt courses, cornices and ornamental features. Ordinary projections of chimney and flues, bay or breast windows not over fifteen feet long, and projecting not more than eighteen inches, may be permitted by the enforcing officer where the same are so placed as not to obstruct the light or ventilation. Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening into fire towers, may project into a yard not more than five feet, but not closer than three feet to the property line. (Ord. 53 § 20-5(C), 1978)

17.36.040 Vision clearance triangle—Corner lot.

On any corner lot in which a front yard is required by this title, no wall, fence, or other structure shall be erected, and no hedge, shrub, tree or other growth shall be maintained which will materially impede vision between a height of three and ten feet above the centerline grades of the intersecting streets within the triangle area formed by the intersecting property lines nearest the streets and a straight line joining said property lines at points which are twenty-five feet distant from the point of intersection, measured along said property lines. In case of open wire, see-through fence, the maximum height of four feet shall prevail within the abovementioned triangular area. (Ord. 312 § 1 (part), 1987; Ord. 235 § 1(A), 1985; Ord. 167 § 1(A, B), 1982; Ord. 90 § 1 (D), 1979; Ord. 53 § 20-5(D), 1978)

17.36.041 Vision clearance triangle—Driveways and alleys.

On any driveway or alley upon which access is obtained from a public right-of-way, there shall be a vision clearance triangle maintained in which no wall, fence or other structure shall be erected, and no hedge, shrub, tree or other growth will materially impede vision between a height of three and ten feet above the centerline grade of the access and the street. The triangle is measured from the property lines and extends twenty feet parallel to the public right-of-way and ten feet parallel to the driveway or alley. In case of open wire, see-through fence, the maximum height of four feet shall prevail within the abovementioned triangular area. (Ord. 312 § 1 (part), 1987)

17.36.042 Fence height—Residential zones.

Fences shall not exceed six feet in height in any residential zone. Fences shall not exceed three feet in height (four feet in height for open wire, see-through fence) within the required front yard. Front yard shall be determined by required minimum front yard setbacks. Front yard includes side property lines. (Ord. 312 § 1 (part), 1987)

17.36.043 Fence height—Sloped lots.

In residential zones, fences which are constructed on top of retaining walls are subject to the following provisions when the combined height of the fence and retaining wall exceeds the maximum allowable fence height described in this chapter. In such a case, that portion of the fence which exceeds the permitted height must be constructed of open wire or maintain seventy-five percent or more of the total surface area of that portion of the fence in an open condition when both of the following conditions exist:

A. The fence is erected on top of a retaining wall or other supporting structure with an average height of eighteen inches or greater; or the fence is erected within five feet of such a structure and the average base height of the fence is eighteen inches or more above the average base height of the supporting structure;

B. The fence is erected within five feet of a side or rear property line which separates two privately owned parcels. This provision shall not apply to property lines adjacent to publicly owned parcels or properties dedicated for public use. (Ord. 312 § 1 (part), 1987)

17.36.044 Fence height—Commercial storage areas.

For storage areas incidental to permitted uses in C-2 (community commercial) and C-3 (central commercial) zones as listed in Sections 17.24.020 and 17.26.020, fences may be increased to a height of eight feet upon the decision of the zoning officer providing that vision clearance shall be maintained as required by Sections 17.36.040 and 17.36.041. In C-1 (local commercial) zones, fences surrounding storage areas may be increased to a height greater than eight feet by conditional use permit. Storage material must be screened from public view. (Ord. 312 § 1 (part), 1987)

17.36.045 Fence height—Industrial zones.

In M-1 (light industrial), M-2 (heavy industrial) and C-M (commercial and light industrial) zones, fences may be increased to a height of eight feet upon the decision of the zoning officer for all permitted uses listed in Sections 17.28.020, 17.30.020 and 17.27.030 providing that vision clearance shall be maintained as required by Sections 17.36.040 and 17.36.041. (Ord. 312 § 1 (part), 1987)

17.36.046 Barbed wire fences—Commercial and industrial zones.

Barbed wire may be used as a portion of a fence in a C-1 (local commercial) zone by conditional use permit and may be used in a C-2 (community commercial), C-3 (central commercial), C-M (commercial and light industrial), M-1 (light industrial) and M-2 (heavy industrial) zone when such material is located not less than eight feet above grade upon the decision of the zoning officer. (Ord. 312 § 1 (part), 1987)

17.36.047 Barbed wire fences—Residential zones.

Barbed wire fences or fences or walls having wire or metal prongs or spikes or cutting points or edges of any kind shall be allowed only in R-C (rural center), R1-S (single-family suburban) and R4-S (mobile home suburban) zones providing that vision clearance shall be maintained as required by Sections 17.36.040 and 17.36.041. (Ord. 312 § 1 (part), 1987)

17.36.048 Electric fences.

Electric fences shall be prohibited except in R-C (rural center), R1-S (single-family suburban) and R4-S (mobile home suburban) zones. (Ord. 312 § 1 (part), 1987)

17.36.050 Street frontage required.

Lots which contain any building used in whole or in part for dwelling purposes shall abut at least one street for a distance of at least sixty feet or must have an exclusive unobstructed private easement of access or right-of-way width of at least twenty feet to a street. (Ord. 53 § 20-5(E), 1978)

17.36.060 Recovery and use of mineral resources.

In accordance with Chapter 38, Title 11, Section 11-3853, Revised Codes of Montana, as amended, nothing in this title shall be construed to prevent the complete use, development, processing or recovery of any mineral, forest or agricultural resources by the owner thereof. (Ord. 53 § 20-5(F), 1978)

17.36.070 Utility structures.

Buildings, structures or uses of land by a public utility operating under the jurisdiction of the Public Service Commission of Montana in accordance with Chapter 1, Title 70, Revised Codes of Montana, shall be deemed an accessory and incidental use in all zones where such utility structures are necessary to provide service to the customers of the public utility. (Ord. 53 § 20-5(G), 1978)

17.36.080 Mobile homes.

Every mobile home located on an individual lot or parcel shall conform to the following criteria, except as otherwise provided in this title:

A. All mobile homes shall have the tongue and running gear removed, except mobile home units placed in an approved mobile home park.

B. Skirting shall be installed around the perimeter of all mobile homes and shall be painted or otherwise treated with an exterior covering similar in color and material to the exterior of the mobile home unit. Where the skirting is constructed of concrete or masonry, no special treatment shall be required.

C. All mobile homes shall meet the development standards of the zone in which it is located. (Ord. 358

§ 1 (part), 1989; Ord. 224 § 1(A), 1984: Ord. 201 § 1(B), 1983: Ord. 53 § 20-5(H), 1978)

17.36.090 Solar collectors, satellite dish antennas and similar accessory structures.

Solar collectors, satellite dish antennas and similar or related accessory structures shall be subject to the development requirements of the underlying zone. However, the unique clear access and directional requirements of such structures shall be regarded as grounds for a hardship to be considered in reviewing any zoning application. (Ord. 236 § 1, 1985: Ord. 53 § 20-5(I), 1978)

17.36.100 Fences.

Fences shall not exceed six feet in height along the side and rear lot lines and shall not exceed three feet in height (four feet in height for open wire, see-through fence) within the required front yard. For storage areas incidental to permitted uses in C-2 (community commercial) zones as listed in Section 17.24.020, fences may be increased to a height of seven feet upon the decision of the zoning enforcement officer, providing that adequate vision clearance shall be maintained within twenty-five feet at the point of intersection of corner lots of any principal arterial, minor arterial, or collector street designated as such by the Butte-Silver Bow major thoroughfare plan. Storage materials must be adequately screened from public view.

In M-1 (light industrial) and M-2 (heavy industrial) zones, fences may be increased to a height of eight feet upon the decision of the zoning enforcement officer, for all permitted uses listed in Sections 17.28.020 and 17.30.020, providing that adequate vision clearance shall be maintained as designated above. Fences greater than eight feet in height may be allowed by special use permit according to the provisions in Sections 17.38.120 through 17.38.160. Barbed wire fences or fences or walls having wire or metal prongs or spikes or cutting points or edges of any kind whatsoever, shall be prohibited except that barbed wire may be used as a portion of a fence in an industrial

zone when such material is located not less than eight feet above grade.

In residential zones, fences which are constructed on top of retaining walls are subject to the following provisions when the combined height of the fence and retaining wall exceeds the maximum allowable fence height described above. In such a case, that portion of the fence which exceeds the permitted height must be constructed of open wire or maintain seventy-five percent or more of the total surface area of that portion of the fence in an open condition when both of the following conditions exist:

A. The fence is erected on top of a retaining wall or other supporting structure with an average height of eighteen inches or greater; or the fence is erected within five feet of such a structure and the average base height of the fence is eighteen inches or more above the average base height of the supporting structure.

B. The fence is erected within five feet of a side or rear property line which separates two privately owned parcels. This provision shall not apply to property lines adjacent to publicly owned parcels or properties dedicated for public use. (Ord. 235 § 1(B), 1985: Ord. 53 § 20-5(J) (part), 1978)

17.36.110 Historic building.

It shall be unlawful to move, remove or demolish any building, headframe or appurtenant mining structure within the boundaries of the historic overlay zone without the review and approval as provided in Chapter 17.33 of this title. (Ord. 238 § 1(B) (part), 1985: Ord. 53 § 20-5(J) (part), 1978)

Chapter 17.37

MANUFACTURED HOMES' PARKS AND INDIVIDUAL MANUFACTURED HOMES

Sections:

17.37.010	Purpose.
17.37.020	Manufactured
home.	

17.37.030	Manufactured home, Class A.
17.37.040	Manufactured home, Class B.
17.37.050	Manufactured home, Class C.
17.37.060	Manufactured home park.
17.37.070	Modular home.
17.37.080	Conditional use review.
17.37.090	Conditional use review criteria.

17.37.010 Purpose.

For the purpose of this chapter, the definitions set out in Sections 17.37.020 through 17.37.080 and procedure shall be utilized in determining the appropriate classification of manufactured homes and modular homes. (Ord. 437 § 18 (part), 1992)

17.37.020 Manufactured home.

A structure constructed off-site, transportable in one or more sections, which in the traveling mode is eight feet or more in width and forty feet or more in length, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. (Ord. 437 § 18 (part), 1992)

17.37.030 Manufactured home, Class A.

Manufactured home constructed after June 15, 1976, that meets the construction standards of the U.S. Department of Housing and Urban Development (USC 42 Sect. 5401) that were in effect at the time of construction and satisfies each of the following additional criteria:

A. The home must be a double wide with two or more sections, being basically rectangular when assembled.

B. The roof shall have sloping lines with eaves, such as gable, mansard and shed-style roofs, or shall be compatible with conventional built homes in the surrounding area. The roof shall be finished with a type of shingle that is commonly used in standard residential construction.

C. The exterior covering material shall be similar, or closely compatible with that found on conventionally built residential structures. Reflection for the exterior siding shall not be greater than from siding coated with white gloss exterior paint.

D. A permanent, weather-retardant skirting installed around the perimeter of the home. The skirting shall be compatible with the exterior siding or made of standard foundation materials.

E. A permanent code-approved foundation placed under the home for proper support. The home shall be permanently anchored to the foundation.

F. The tongue, axles, transportation lights and removable towing apparatus shall be removed after placement on the lot before occupancy.

G. The home shall meet all the development standards of the zone in which it is located. (Ord. 437 § 18 (part), 1992)

17.37.040 Manufactured home, Class B.

A manufactured home constructed after June 15, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development (USC 42 Sect. 5401) that were in effect at the time of construction but does not satisfy the criteria necessary to qualify the home as a Class A manufactured home. (Ord. 437 § 18 (part), 1992)

17.37.050 Manufactured home, Class C.

Any manufactured home that does not meet the criteria, by definition, of a Class A or Class B manufactured home. (Ord. 437 § 18 (part), 1992)

17.37.060 Manufactured home park.

A residential use in which more than one manufactured home is located on a single lot. (Ord. 437 § 18 (part), 1992)

17.37.070 Modular home.

A dwelling unit constructed in accordance with the standards set forth in the Uniform Building Code, applicable to site built homes, and composed of components substantially assembled in manufacturing plants and transported to the site in a manner similar to a manufactured home (except that the modular home meets the Uniform Building Code Standards applicable to site-built homes) or a series of panels or room sections transported on a truck and erected or joined together on the site. (Ord. 437 § 18 (part), 1992)

17.37.080 Conditional use review.

Pertaining to manufactured homes, is intended to give flexibility for the placement of manufactured homes on land within each zone where appropriate, but specific safeguards are provided to protect other permitted uses from adverse effects. (Ord. 437 § 18 (part), 1992)

17.37.090 Conditional use review criteria.

Application may be initiated by the property owner or his designated representative; all questions must be answered in full and either typed or legibly written. The application shall include, but not be limited to, the following information:

A. The applicant's address, business and home phone numbers (if applicable, include this information for the representative);

B. A legal and general description of the tract(s) upon which the conditional use review is requested;

C. Vicinity map;

D. A site plan showing major details of the proposed development, including but not limited to: the dimensions and location of proposed and existing buildings and structures; off-street parking, service

and refuse areas; means of ingress and egress; landscaping, screening and open space areas. The site plan must be drawn at a minimum scale of one inch equals twenty feet;

E. Timetable for development;

F. Briefly address the following criteria as it pertains to the conditional use review;

1. Compatibility of the proposed structure with existing adjacent buildings, structures, neighborhood, topography or other considerations,

2. Potential of the proposed structure to enhance and promote the comprehensive development of the immediate neighborhood and community by facilitating the use of nonconforming lots,

3. Conformance of the proposed structure generally to the objectives of the adopted comprehensive plan and the purpose of this chapter;

G. All plans, exhibits and other legal documents submitted with the conditional use review application will be retained as a part of the permanent public record;

H. The conditional use review application for manufactured homes shall be submitted to the Butte-Silver Bow building and code enforcement office by the deadline date of the next regularly scheduled meeting;

I. As indicated in Title 17 of the Butte-Silver Bow Municipal Code, a nonrefundable filing fee must accompany the conditional use review applicable made payable to Butte-Silver Bow Government. (Ord. 437 § 18 (part), 1992)

Chapter 17.38

SPECIAL PROVISIONS

Sections:

17.38.010 Emission of hazardous or offensive substances.

17.38.020 Air, water and soil pollution.

17.38.025 Stormwater drainage.

17.38.030	Screening activities.	17.38.053	Landscaping requirements— Site plan required.
17.38.035	Landscaping requirements—Intent.	17.38.054	Screening— Waste material and excavated soil material.
17.38.036	Landscaping requirements—Zones.	17.38.055	Sprinkler system installation requirements.
17.38.037	Landscaping requirements—Determination of area.	17.38.060	Landscaping— Completion bond required.
17.38.041	Landscaping requirements—New site development.	17.38.061	Landscaping— Completion bond not required.
17.38.042	Landscaping requirements—Existing site development.	17.38.062	Bonding—Cost figure.
17.38.043	Landscaping requirements—Undeveloped portions of property.	17.38.063	Bonding—Form.
17.38.044	Landscaping requirements—Commercial or industrial uses in residential zones.	17.38.064	Landscaping— Improvement time.
17.38.045	Landscaping requirements—Parking lot site development.	17.38.065	Landscaping bond life.
17.38.046	Landscaping buffers.	17.38.066	Landscaping— Failure to complete.
17.38.047	Landscaping requirements—Tree and shrub minimum sizes.	17.38.067	Bonding— Release.
17.38.048	Landscaping requirements—Area of vegetation.	17.38.070	Planned unit developments in limited zones.
17.38.049	Landscaping requirements—Trees required.	17.38.080	Other standards as warranted.
17.38.050	Landscaping requirements—Sidewalk and curb/gutter; front and corner yards.	17.38.090	Private sanitary facilities—Lot area requirements.
17.38.051	Landscaping requirements— Boulevards.	17.38.100	Relocation of existing structures and uses.
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		17.38.120	Special or conditional use permit—Intent.
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17.38.150 **Special or conditional use permit—Criteria for review of applications.**

17.38.160 **Special or conditional use permit—Decision of board.**

17.38.170 **Special use permit—Responsibility of applicant.**

17.38.180 **Special use permit—Uses allowed.**

17.38.200 **Public owned playgrounds and park lands including park buildings and concessions.**

17.38.210 **Public and private nonprofit schools.**

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17.38.240 **Public service and utility buildings.**

17.38.250 **Professional and business offices.**

17.38.252 **Child day care centers.**

17.38.255 **Townhouse complexes.**

17.38.260 **Temporary uses—Intent.**

17.38.270 **Temporary uses—Definitions.**

17.38.280 **Temporary uses—Exemptions.**

17.38.290 **Temporary uses—Permitted uses.**

17.38.300 **Temporary uses—Facility and site.**

17.38.310 **Temporary uses—Parking facilities.**

17.38.320 **Temporary uses—Signs.**

17.38.330 Temporary uses—Conformance.

17.38.010 Emission of hazardous or offensive substances.

A. At all times, and for all uses, every economically feasible method shall be employed to prevent any manner of operation which is or may become hazardous, noxious or offensive due to the emission of odor, dust, noise, smoke, fumes, particles, vibrations, radiation, glare, refuse matter or water-carried waste.

B. General industrial uses shall employ the best means known and presently commercially available for the prevention of the above or similar nuisances. (Ord. 00-1 § 1 (part), 2000: Ord. 53 § 170-1(A), (B), 1978)

17.38.020 Air, water and soil pollution.

At all times, and for all uses, every economically feasible method shall be employed to prevent air, water and soil pollution. These shall conform to the standards prescribed by the Clean Air Act of Montana and existing state and federal statutes and regulations. Conditions and performance standards limiting the conduct of permitted uses may be required in any specified zone or portion thereof where necessary to achieve compatibility of development with surrounding properties or to promote commercial and industrial park development. Any zone or portion thereof where such conditions and standards are to be required shall be established by ordinance and identified on the zoning map by the suffix “L” attached to its zone designation (i.e. “C-1L”), and shall be referred to as a “limited” zone. Hereafter, uses in any zone or portion thereof having the suffix “L” shall be limited and conducted in accordance with the conditions and performance standards set forth in Sections 17.38.030 through 17.38.080. (Ord. 00-1 § 1 (part), 2000: Ord. 53 § 170-1(C) (part), 1978)

17.38.025 Stormwater drainage.

All new industrial, commercial or residential uses shall be designed to detain on-site the two-year, six-hour storm event. All stormwater beyond the two-year, six-hour storm event shall be directed into the public stormwater drainage system or into an approved stormwater detention area. Prior to installation, the stormwater drainage plan is subject to review and approval by the Butte-Silver Bow public works department. (Ord. 00-1 § 1 (part), 2000)

17.38.030 Screening activities.

All processing and storage, including storage of waste materials, shall be conducted wholly within a building or shall be screened from view from the surrounding properties in R, C and any limited or M zone. All off-street loading areas shall be located wholly within a building or shall be screened from view from the surrounding properties in R zones. (Ord. 00-1 § 1 (part), 2000: Ord. 53 § 170-1(C) (1), 1978)

**17.38.035 Landscaping requirements—
Intent.**

It is the intent of this chapter to enhance the aesthetic value of commercial and industrial development and buffer those uses of land which may have an adverse impact on surrounding land use. (Ord. 00-1 § 1 (part), 2000: Ord. 306 § 1 (part), 1987: Ord. 258 § 1 (part), 1985: Ord. 100 § 1 (part), 1980: Ord. 53 § 170-35, 1978)

**17.38.036 Landscaping requirements—
Zones.**

The landscaping requirements of this chapter shall be met in the following zones:

- A. C-1 zone;
- B. C-2 zone;
- C. C-3 zone — parking lots only;
- D. C-M zone;
- E. M-1 zone;

F. M-2 zone. (Ord. 00-1 § 1 (part), 2000: Ord. 306 § 1 (part), 1987: Ord. 258 § 1 (part), 1985: Ord. 53 § 170-36, 1978)

**17.38.037 Landscaping requirements—
Determination of area.**

Landscaping area shall be based on the square footage of the parcel less the square footage of the building or buildings on the site. The landscaping requirement shall be calculated by multiplying the above determined landscaping area by the following percentages:

Parcel less than 22,000 square feet	6%;
Parcel 22,000 square feet to 5 acres	5%;
Parcel over 5 acres	4%.

Of the amount of required landscaping, a minimum of sixty percent shall be live vegetative ground cover of grass or other plant materials. The remaining forty percent maximum may be covered with decorative rock, stone, bark, decorative structural or sculptural elements, etc., and other impermeable features including pedestrian paths, which shall be underlain with approved materials to prevent growth of weeds and this area shall be contained by curbing or other approved methods. (Ord. 00-1 § 1 (part), 2000: Ord. 306 § 1 (part), 1987: Ord. 258 § 1 (part), 1985: Ord. 100 § 1 (part), 1980: Ord. 53 § 170-37, 1978)

**17.38.041 Landscaping requirements—New
site development.**

New site development shall provide one hundred percent of the landscaping as defined by this chapter. (Ord. 00-1 § 1 (part), 2000: Ord. 306 § 1 (part), 1987: Ord. 53 § 170-41, 1978)

**17.38.042 Landscaping requirements—
Existing site development.**

Building additions which are equal to twenty-five percent or greater of the total existing building area shall be required to meet the full compliance of this title. Additions which are less than twenty-five percent of the total existing building area shall meet one-third of the total landscaping requirement for the existing building and the addition combined. (Ord. 00-1 § 1 (part), 2000; Ord. 306 § 1 (part), 1987; Ord. 53 § 170-42, 1978)

**17.38.043 Landscaping requirements—
Undeveloped portions of property.**

All portions of a property not proposed to be improved by building construction or landscaping for new developments or expansions shall be graded and seeded with native grass in a manner as to prevent water erosion, dust and establishment of noxious weeds. Undeveloped portions of properties are subject to the maintenance requirements of 17.38.047. (Ord. 00-1 § 1 (part), 2000)

**17.38.044 Landscaping requirements—
Commercial or industrial uses in
residential zones.**

Commercial and industrial uses allowed by conditional/special use permit or by use variance shall meet all landscaping requirements defined by this chapter. (Ord. 00-1 § 1 (part), 2000)

**17.38.045 Landscaping requirements—
Parking lot site development.**

New or improved parking lot construction, with or without an existing building or additional building or additional building construction on the same tract, shall be required to provide twenty-five square feet of landscaping per parking space. Landscaping, including appropriate trees, shall be required in all parking strips, and required front and corner side yards. All remaining portions of the lot lying between the building and the front and side property lines shall be landscaped, or screened. Access and buffering requirements shall apply to such improvements. Parking lot site development shall be approved by the zoning officer. This provision is in addition to the percentage of landscaping required. (Ord. 00-1 § 1 (part), 2000; Ord. 306 § 1 (part), 1987; Ord. 53 § 170-43, 1978)

17.38.046 Landscaping buffers.

Landscaping buffers, properly maintained, shall be provided as follows:

A. Where the lot adjoins the side property line of a lot in an R zone, there shall be provided trees and shrubs of sufficient height and density to effectively screen the property including a five-foot wide planting strip.

B. All new commercial or industrial buildings or expansions, which are equal to twenty-five percent or more of the existing floor area, and which are across a street from a residential zone, shall provide a landscaped buffer area a minimum of six feet wide along the perimeter of such lot lines. This landscaped area shall include a visual buffer erected along the inside edge of the landscaped area. The visual buffer may be excluded, provided the developer obtains written approval from adjacent residential landowners. Visual buffer or screens shall not be less than four feet high, except when the zoning officer authorizes a reduction to improve or sustain safe sight distance along alleys, streets or highways.

C. Where additions or expansion of existing commercial or industrial uses are less than twenty-five percent of the total floor area, and are across a street from a residential zone, a landscaped buffer shall not

be required, providing all other requirements of this section have been met.

D. All new commercial or industrial buildings or expansions, which are equal to fifty percent or more of the existing floor area, and which are across an alley from a residential zone, shall provide a continuous curb six inches above grade along the property line adjacent to the alley. This curb may have one public access approach not to exceed twenty-four feet. The curb may have openings to provide access to residential garages or driveways which are across the alley from such property. These curb openings shall be approved by the zoning enforcement officer. A landscaped area of one square foot per lineal foot of property line adjacent to the alley shall be provided along said property line. This landscaped area may be linear or group planting and shall be approved by the zoning officer. This provision is in addition to the percentage of landscaping required.

E. To prevent the headlights of vehicles from having a negative impact on residential property owners, all parking lots bordering a residential zone or across the alley or street from a residential zone shall provide a three-foot masonry wall or a solid wood fence along the lineal extent of the adjacent property line. (Ord. 00-1 § 1 (part), 2000; Ord. 135 § 1(aa), 1981; Ord. 53 § 170-1(C)(2), 1978)

17.38.047 Landscaping requirements—Tree and shrub minimum sizes.

A. Deciduous Trees. Trees planted in commercial and industrial zones shall have a minimum of a one-inch caliper.

B. Coniferous Trees. Trees planted in commercial and industrial zones shall have a minimum height of four feet.

C. Shrubs planted in a commercial or industrial zone shall be a minimum of a three-gallon shrub. (Ord. 00-1 § 1 (part), 2000)

17.38.048 Landscaping requirements—Area of vegetation.

A. One three gallon or larger shrub shall be equal to twenty-five square feet of live vegetative ground cover. Shrubs greater than three gallons shall be equal to fifty square feet in area. Coniferous trees equal to four feet in height shall be equal to one hundred fifty square feet of live vegetative ground cover. Coniferous trees taller than four feet in height shall be equal to an additional fifty square feet in landscaping area for each foot in height over four feet. Deciduous trees that are of a one-inch caliper shall be equal to one hundred fifty square feet of live vegetative ground cover. Deciduous trees that are larger than a one-inch caliper shall be equal to an additional fifty square feet in landscaping area for each inch in caliper over one inch.

B. Current planting specifications are on file in the planning department. (Ord. 00-1 § 1 (part), 2000; Ord. 306 § 1 (part), 1987; Ord. 258 § 1 (part), 1985; Ord. 225 § 1(E) (part), 1985; Ord. 100 § 1 (part), 1980; Ord. 53 § 170-38, 1978)

17.38.049 Landscaping requirements—Trees required.

Trees shall be the major design element in all landscaping improvements and shall include, specifically, one tree per five parking spaces. This provision is in addition to the percentage of landscaping required. See 17.38.036 for minimum tree size requirements. (Ord. 00-1 § 1 (part), 2000; Ord. 306 § 1 (part), 1987; Ord. 53 § 170-44, 1978)

**17.38.050 Landscaping requirements—
Sidewalk and curb/gutter; front
and corner yards.**

A. All new commercial and industrial uses or expansions which are equal to twenty-five percent or more of the existing floor area shall install sidewalks/curb and gutter along all property lines that are adjacent to a dedicated street. Minimum sidewalk specifications shall be as follows: four-inch concrete depth, three-inch compacted gravel base and width to match the existing sidewalks on the same street. In the instance where there are not sidewalks on the same street, the minimum sidewalk width shall be five feet.

B. Prior to installation, the sidewalk/curb and gutter location, grade and all other technical specifications must be reviewed and approved by the Butte-Silver Bow department of public works. In the instance where the paving in the public right-of-way has been removed to allow for the sidewalk/curb and gutter, all paving shall be replaced in a manner that matches the grade of the existing paving with the appropriate edge of the curb.

C. All required sidewalks/curb and gutter are subject to the bonding requirements as per this title.

D. Required landscaping shall be provided in front and corner yards. Whenever a parking lot is bordered by a public sidewalk, or where any sort of exclusive pedestrian path is included in the parking lot design, at least twenty-five percent of the required landscaping shall be adjacent to the sidewalk or pedestrian paths. (Ord. 00-1 § 1 (part), 2000; Ord. 306 § 1 (part), 1987; Ord. 53 § 170-45, 1978)

**17.38.051 Landscaping requirements—
Boulevards.**

When properties are adjacent to a boulevard, the owner may landscape the boulevard and receive credit for required landscaping. Landscaping of the boulevard shall be approved by the Butte-Silver Bow department of public works and shall be maintained by the owner of such property. (Ord. 00-1 § 1 (part), 2000; Ord. 306 § 1 (part), 1987; Ord. 53 § 170-46, 1978)

**17.38.052 Landscaping requirements—
Maintenance.**

The developer, his or her successor, and/or the property owner shall be responsible for regular weeding, irrigating, pruning and other maintenance of the landscaping, including the replacement of dead trees, shrubs, grass or other vegetation, and the treatment or replacement of those showing signs of disease or damage. The owner shall be responsible for the maintenance of non-live decorative landscaping in a satisfactory and safe condition. (Ord. 00-1 § 1 (part), 2000; Ord. 306 § 1 (part), 1987; Ord. 53 § 170-47, 1978)

**17.38.053 Landscaping requirements—Site
plan required.**

A. A site plan showing required landscaping shall be submitted to the zoning officer for review and approval for commercial and industrial properties. A site plan shall meet all requirements and intent of this title. A site plan shall include, but not be limited to, the following:

1. Location of buildings and proposed landscaping drawn to scale. Scale shall be appropriate to the size of the project and meet the approval of the zoning officer;

2. Location, size, type and condition of proposed and existing vegetation and natural or non-live decorative materials including benches, walks, plaza, lighting, etc.

B. The approved landscape plan shall not be changed or altered without the approval of the zoning officer. All landscaping shown on the approved plan shall be installed and maintained. (Ord. 00-1 § 1 (part), 2000; Ord. 306 § 1 (part), 1987; Ord. 53 § 170-48, 1978)

17.38.054 Screening—Waste material and excavated soil material.

A. All processing and storage, including storage of waste materials and excavated soil material, shall be conducted wholly within a building or wholly contained within the property boundaries of the property from which it was removed and shall be screened from view from the surrounding properties in R, C and any limited or M zone.

B. At no time shall soil material be stored or stockpiled within any public right-of-way. This requirement does not apply to street opening related to utility connections. (Ord. 00-1 § 1 (part), 2000: Ord. 306 § 1 (part), 1987: Ord. 53 § 170-51, 1978)

17.38.055 Sprinkler system installation requirements.

All commercial and industrial uses shall install an automatic sprinkler system that will irrigate all live vegetation. The required sprinkler system is subject to the bonding requirements as per this title. In addition, the following requirements shall be met:

A. When the sprinkler system is directly connected to the public water system, approval of the water main connection for irrigation purposes is subject to the review and approval of the Butte-Silver Bow department of public works—water utility division.

B. All sprinkler systems connected to the public water system shall include the following:

1. A dual check valve backflow preventer shall be installed on the private line connecting to the public water line (as specified by the Butte-Silver Bow water utility division). This device shall be placed in an appropriate box with lid as specified by the B-SB water utility division;

2. A water meter shall be installed on the private line connecting to the public water line by a method as specified by the Butte-Silver Bow water utility division. The method of installation shall include shut off valves, bypasses, and meter boxes as appropriate to the installation;

3. An anti-siphon device shall be installed on the private line connecting to the public water line, on all yard hydrants, and at any location where a hose can be

connected to the system, as specified by the Butte-Silver Bow water utility division. (Ord. 00-1 § 1 (part), 2000)

17.38.060 Landscaping—Completion bond required.

Before a building permit will be issued for the construction of any industrial or commercial building or addition thereto, the developer or his/her authorized representative shall submit a completion bond to the zoning officer to ensure that the landscaping, sprinkler system and sidewalks as required in this title are properly installed. (Ord. 00-1 § 1 (part), 2000: Ord. 306 § 1 (part), 1987: Ord. 53 § 170-60, 1978)

17.38.061 Landscaping—Completion bond not required.

When a development site is currently landscaped in a manner that complies with the provisions of this chapter, a landscaping bond shall not be required. (Ord. 00-1 § 1 (part), 2000: Ord. 306 § 1 (part), 1987: Ord. 53 § 170-61, 1978)

17.38.062 Bonding—Cost figure.

The applicant will be required to bond for all landscaping improvements as required by this title, including the sprinkler system and sidewalk/curb and gutter. The applicant will be required to submit a cost estimate for all required landscaping improvements. The cost estimate must be an actual representation of the total landscaping cost certified by a person or business licensed to perform landscaping in Butte-Silver Bow County. The cost estimate will be subject to review and approval by the zoning enforcement officer and shall be based on one hundred ten percent of the approved cost estimate for all landscaping improvements, including materials and installation. (Ord. 00-1 § 1 (part), 2000: Ord. 306 § 1 (part), 1987: Ord. 53 § 170-62, 1978)

17.38.063 Bonding—Form.

Completion bonds may be in the form of cash, letter of credit, certificate of deposit or surety bond executed by a company authorized to do business in the state of Montana and will be released only after the zoning officer or his representative has inspected the landscape improvements and found that all required landscaping has been properly installed. Real property bonds will not be accepted as form of bonding. (Ord. 00-1 § 1 (part), 2000; Ord. 306 § 1 (part), 1987; Ord. 53 § 170-63, 1978)

17.38.064 Landscaping—Improvement time.

The installation of landscape improvements shall be completed within twelve months of submittal of the approved bond. Landscaping improvements, for building projects where the length of time of construction will extend beyond the twelve-month period, shall be completed within a length of time as approved by the zoning officer. (Ord. 00-1 § 1 (part), 2000; Ord. 306 § 1 (part), 1987; Ord. 53 § 170-64, 1978)

17.38.065 Landscaping bond life.

The life of a bond is required to be a minimum of one year from the date the bond is accepted by the planning department. The bond life may be extended for a period of one additional year due to an extended construction period or adverse weather conditions. (Ord. 00-1 § 1 (part), 2000)

17.38.066 Landscaping—Failure to complete.

Failure to complete the installation of the landscape improvements within the allotted time shall be deemed a forfeiture of the completion bond. When the completion bond is a letter of credit, cash deposit or surety bond, the local government shall utilize such securities to ensure the installation of the landscape improvements. (Ord. 00-1 § 1 (part), 2000; Ord. 306 § 1 (part), 1987; Ord. 53 § 170-65, 1978)

17.38.067 Bonding—Release.

When all requirements of a bond have been met, ninety percent of the bond will be released. The remaining ten percent will be retained as a maintenance security for the remainder of the two-year bond period. However, if the bond release date falls within October, November, December, January, February, March or April, the release of the bond shall be postponed until the vegetation can be determined to be in good health the following month of May. (Ord. 00-1 § 1 (part), 2000)

17.38.070 Planned unit developments in limited zones.

In any limited zone, the board of adjustment may accept and prescribe conditions by plans and written agreement governing the use of property in said zone where such conditions are in the best public interest and necessary to assure compatibility of land uses or orderly planned unit development of specified arrangement and type. Plans and agreements for such proposed planned unit development may be proposed and filed by the owners of the property being rezoned and may include provisions for additional street and utility improvements necessitated by the proposed development, under the provisions of Chapter 17.46. (Ord. 135 § 1(aa), 1981; Ord. 53 § 170-1(C)(5), 1978)

17.38.080 Other standards as warranted.

In recommending a limited zone classification on any land, the board may add such standards and conditions as it may deem necessary to adequately protect properties in and surrounding the specific plot being zoned, including a time limit for substantial construction of the property as authorized by the rezoning. After the time limit has expired, as provided in Section 17.52.020, without the commencement of the use, the land shall automatically be returned to its previous zoning classification before the L-zone classification was granted unless an extension of said time limit is authorized by the board of adjustment. (Ord. 135 § 1(aa), 1981; Ord. 53 § 170-1(C)(6), 1978)

17.38.090 Private sanitary facilities—Lot area requirements.

Any other regulations of this title notwithstanding, in any zone where public water and sanitary facilities are not accessible, the lot area per dwelling unit or family and lot frontage requirements specified for residential uses shall be increased as follows:

A. Sewerage and Water Not Available. Where both sewerage and public water supply are not accessible:

1. Minimum lot area, one acre;
2. Minimum lot frontage, one hundred twenty-five feet.

B. Sewerage Not Available. Where public water supply is accessible and private connections will be made, but where public sewerage is not accessible:

1. Minimum lot area, one-half acre;
2. Minimum lot frontage, eighty feet.

C. Higher Standards Prevail. Where public water supply and sewerage are accessible in any zone wherein the lot area and frontage requirements are higher than specified in this section, such higher requirements shall still apply as set forth in respective zone regulations of this title. (Ord. 53 § 170-2, 1978)

17.38.100 Relocation of existing structures and uses.

No existing structure or use shall be moved to another lot in any zone in Butte-Silver Bow unless such structure or use or the proposed conversion thereof conforms to all regulations of this title, the building code, and amendments thereto, regulating the moving and relocation of buildings. (Ord. 53 § 170-4, 1978)

17.38.110 Conversions of large residences.

Residences in R-2 zones and having a floor area in excess of fifteen hundred square feet exclusive of porches, garages, and basements may be converted to not more than the number of dwelling units permitted in an R-2 zone. (Ord. 53 § 170-5, 1978)

17.38.120 Special or conditional use permit—Intent.

Special or conditional use permits for uses, other than those specifically allowed in each district, are intended to provide more flexibility for the use of land in each zone where appropriate, but specific safeguards are provided to protect other permitted uses from possible adverse effects. (Ord. 53 § 170-6(A), 1978)

17.38.130 Special or conditional use permit—Initiation.

Application for special or conditional use permits may be initiated by the property owner or his designated representative. (Ord. 53 § 170-6(B), 1978)

17.38.140 Special or conditional use permit—Application procedure.

A. Applications are made by letter to the zoning officer, specifying the intended use;

B. The zoning officer may request that the applicant provide such information and specifications as may be necessary to evaluate the application. (Ord. 53 § 170-6(C), 1978)

17.38.150 Special or conditional use permit—Criteria for review of applications.

In reviewing applications for the criteria or amendment of zones, planned variation, special or conditional uses, or special exceptions, due consideration shall be given to the following:

A. The location, character and natural features of the property;

B. The location, character and design of adjacent buildings;

C. Substantial changes that have occurred in the surrounding land uses since the original adoption of the ordinance codified in this title;

D. Proposed fencing, screening and landscaping;

E. Proposed vegetation, topography, and natural drainage;

F. Proposed vehicular access, circulation, and parking, including that relating to bicycles and other

unpowered vehicles and provisions for handicapped persons;

G. Proposed pedestrian circulation, including provisions for handicapped persons;

H. Proposed signs and lighting;

I. All potential nuisances;

J. Public safety and health;

K. The availability of public utilities and services;

L. Situations which prevent the utilization of the property for the full range of uses allowed in that district;

M. The use or zone classification sought would enhance and promote the comprehensive development of the immediate neighborhood, and community;

N. That the use or classification conforms generally to the objectives of the adopted comprehensive plan and to the purpose of this title;

O. That the use will promote or not substantially impede the conservation of resources and energy, and the conservation policy of Butte-Silver Bow, state of Montana;

P. That the use meets the overall density, yard, height, and other requirements of the zone in which it is located;

Q. That the use or classification will not adversely affect nearby properties or their occupants;

R. Conformity of the proposed use with the neighborhood plan, if one has been adopted;

S. Compatibility of proposed project with existing adjacent buildings, structures, neighborhood, topography or other consideration; and

T. Expressed public opinion relating to the criteria enumerated above, including the views of neighborhood associations. (Ord. 53 § 170-6(D), 1978)

17.38.160 Special or conditional use permit—Decision of board.

Within fifteen days after the receipt of the application and all requested information, the zoning officer shall refer the application to the board of adjustment upon which the board shall within sixty days:

A. Deny the application and give reasons for the denial, in writing, to the applicant; or

B. Approve the application and the zoning officer shall issue a zoning compliance permit with conditions specified thereon. (Ord. 135 § 1(ss), 1981; Ord. 54 § 170-6(E), 1978)

17.38.170 Special use permit—Responsibility of applicant.

Wherever this title authorizes the issuance of a special use permit, the board of adjustment, based on a finding that such use will not be unduly detrimental to other properties and/or contrary to the spirit and intent of this title, it shall be the responsibility of the applicant or petitioner to present evidence to the satisfaction of said body or person, authorized by this title to hear the application, that said undue detriment will not result from the permission requested. In addition to such evidence, the administrative officer or the board of adjustment may consider such other information as it deems to be relevant. (Ord. 135 § 1(hh), (part), 1981; Ord. 53 § 170-3(C), 1978)

17.38.180 Special use permit—Uses allowed.

The following uses may be allowed in any zone by special use permit from the board of adjustment after public hearing; provided, that the location thereof is found by the board to be in harmony with proper development; and, provided, reasonable conditions shall be imposed to protect the surrounding property and zone in which such use is to be located: airports; drive-in theaters; art galleries; museums; universities; stadiums; coliseums; hospitals and medical and dental clinics; nursing homes; retirement homes or boarding homes; orphanages; nonprofit institutions for educational, philanthropic, and eleemosynary uses; railroad right-of-ways, provided that no loading, storage, or switching shall be permitted in any R zone; sewerage treatment plants; electric power plants; municipal crematories and refuse dumps; radio and television broadcasting stations and transmitter towers; cemeteries; recreational developments operated by public and private organizations or individuals after a finding by the board that the recreational development will be of benefit to the community; and any use rules by the board to be similar in nature to the uses listed above in this section in that said use possesses peculiar location, design or special problems that need to be reviewed or controlled by a special use permit.. (Ord. 193 § 1(B), 1983; Ord. 135 § 1 (bb)—(ee), 1981; Ord. 53 § 170-3(A), 1978)

17.38.200 Public owned playgrounds and park lands including park buildings and concessions.

Playgrounds, community buildings, and swimming pools to be conducted by nonprofit associations or nonprofit corporations may be allowed by a special use permit from the board of adjustment, after public hearing and examination of the location thereof, and a finding that the use and maintenance of such playground, community building, or swimming pool will not be unduly detrimental to surrounding properties. (Ord. 135 § 1(ii), 1981; Ord. 53 § 170-3(D), 1978)

17.38.210 Public and private nonprofit schools.

Public and private nonprofit schools may be allowed by a special use permit effective ten days after its issuance, which permit may be issued by the board of adjustment upon presentation of evidence satisfactory to the board that the location and development will further the growth of Butte-Silver Bow without undue detriment to surrounding properties; and, provided, that the site area and layout are adequate to permanently accommodate the required off-street parking area, service yards, and reasonable building and playground space. (Ord. 135 § 1(jj), (kk), 1981; Ord. 53 § 170-3(E), 1978)

17.38.220 Private schools operated for profit.

Private schools operated for profit, such as music and dance schools, may be allowed by a conditional use permit from the board of adjustment after public hearing and examination of the plans and location thereof, and a finding that the site and proposed development are reasonably consistent with requirements made for public schools by this title, and that such use will not be unduly detrimental to surrounding properties. (Ord. 135 § 1(ll), 1981; Ord. 53 § 170-3(F), 1978)

17.38.230 Churches and convents.

Churches and convents may be allowed by a special use permit effective ten days after its issuance, which permit may be issued by the board of adjustment after presentation of plans and evidence satisfactory to the board that the buildings and site layout will harmonize with surrounding architecture and development existing thereabouts and ordinarily found in the zone where said use is to be located, and that the use will not be unduly detrimental to the surrounding properties. Side yards not less than twenty feet in width shall be required. Every portion of such buildings, except superstructures, which exceeds one story in height, shall be set in from the side property lines of adjoining lots in R zones a distance of not less than the height of said portion above the ground, except when said adjoining lots are occupied by nonresidential uses. The off-street parking regulations of this title shall be complied with. Passenger buses operated by the church or convent may be parked on the church or convent site if screened or enclosed in a private garage. Upon granting approval, the board shall forthwith cause a notice stating the nature of the proposal to be posted on the proposed site or the street adjoining and at other nearby conspicuous places. (Ord. 135 § 1(mm)—(oo), 1981; Ord. 53 § 170-3 (G), 1978)

17.38.240 Public service and utility buildings.

Essential public service and utility buildings including libraries, fire and police stations, telephone exchanges, regulator and electric substations, and similar uses may be allowed by a special use permit from the board of adjustment; provided, that the board finds the use will not be unduly detrimental to surrounding properties and that the location is found to be essential to servicing the area in which the facility is to be located and in harmony with the comprehensive plan for the use of land in Butte-Silver Bow. The buildings shall harmonize with the surroundings as to type of architecture, setting, and landscaping existing and ordinarily found in the zone where said use is to be located and shall be located on the lot so as to be least detrimental to surrounding properties. The board may impose reasonable conditions as are necessary to protect surrounding properties and to preserve the spirit of this title. (Ord. 135 § 1(pp)—(rr), 1981; Ord. 53 § 170-3(H), 1978)

17.38.250 Professional and business offices.

Professional and business offices may be allowed in any zone by special use permit provided that the sale of products is not a function of said business, upon a finding by the board of adjustment that the location and development of the property will harmonize with the existing development and that the said use will not be detrimental to the surrounding properties. (Ord. 193 § 1(A), 1983)

17.38.252 Child day care centers.

Child day care centers may be allowed in any zone by special use permit from the board of adjustment after public hearing and examination of location thereof, and a finding that the location and development will harmonize with the existing development and that such use will not be detrimental to the surrounding properties.

Child day care centers are also subject to the review and written approval of the state of Montana Department of Health and Human Services, and the Butte-

Silver Bow fire, health, and building code departments. (Ord. 00-9 § 1 (part), 2000)

17.38.255 Townhouse complexes.

Townhouse complexes may be allowed in certain residential zones by special use permit; provided, that in the R-1, R-2 and R-4 zones, no more than two single-family units may be constructed using a common wall. Proposed structures having two or more dwelling units are allowed in R-3 zones upon finding by the board of adjustment that the location and development of the property will harmonize with the existing development and that said use will not be detrimental to the surrounding properties. (Ord. 340 § 1 (part), 1988)

17.38.260 Temporary uses—Intent.

It is the intent of Sections 17.38.270 through 17.38.330 to provide development standards and requirements for seasonal commercial uses and temporary sales facilities. Such standards are established to ensure the promotion of public health, safety, comfort, convenience and general welfare. (Ord. 219 § 1(A), 1984; Ord. 53 § 170-8(A), 1978)

17.38.270 Temporary uses—Definitions.

The following terms when used in Sections 17.38.260 through 17.38.330 shall have the following meanings:

A. “Itinerant produce merchant” means every person, firm or corporation, acting for himself or itself, or representing any other person, firm or corporation, who or which shall bring into temporary premises within Butte-Silver Bow any goods, wares or articles of merchandise, which are the natural products of the farm, or the natural products of the orchard, vineyard, garden, or apiary, raw or manufactured, and who or which solicits, sells or offers to sell, or exhibits for sale, such goods, wares or articles of merchandise, which are the natural products of the farm, or the natural products of the orchard, vineyard, garden, or apiary, raw or manufactured, at retail, is, within the meaning of this title, an “itinerant produce merchant.”

B. “Seasonal commercial use” means a temporary sales facility which is seasonal in nature such as fireworks stands and Christmas tree sales.

C. “Temporary premises” within the meaning of this title includes any hotel, motel, roominghouse, warehouse, building or any part of any building whatsoever, tent, vacant lot, parking lot, freight station, railroad car, motor vehicle, or any public or quasi-public place temporarily occupied for such business. If any site is used or licensed for use for more than ninety days in any twelve-month period, such site shall meet the same standards as required of any permanent use.

D. “Temporary sales facility” means any facility and/or equipment, including vehicles, used by transient retail merchants or itinerant produce merchants, placed on temporary premises and used for retail sales.

E. “Transient retail merchant” means every person, firm, corporation, acting for himself, or representing any other person, firm or corporation who or which brings into temporary premises within Butte-Silver Bow a stock of goods, wares or articles of merchandise or notions or other articles of trade, including meat and fish, and who or which solicits, sells or offers to sell, or exhibit for sale, such stock of goods, wares or articles of merchandise or notions or other articles of trade, including meat and fish, at retail is a “transient retail merchant.” Persons operating small motor vehicles primarily in residential neighborhoods which are constantly in movement except when stopped to make sales shall not be considered transient retail merchants for purposes of Sections 17.38.270 through 17.38.330. (Ord. 219 § 1(B), 1984; Ord. 53 § 170-8(B), 1978)

17.38.280 Temporary uses—Exemptions.

The following are exempted from the provisions of Sections 17.38.260 through 17.38.330:

A. Bona fide charitable or nonprofit organizations occupying temporary premises for a duration of three days or less are exempt from the requirements in Sections 17.38.260 through 17.38.330.

B. Any merchant who is licensed by Butte-Silver Bow to conduct business at a permanent location may

operate a temporary sales facility from temporary premises adjacent to the permanent business location. Such an activity shall be exempt from the requirements in Sections 17.38.260 through 17.38.330; provided, however, that the temporary facility is not operated for more than three days in succession.

C. Temporary sales facilities as allowed in R-1S (one-family suburban residence) zones and R-4S (mobile home suburban residence) zones are exempt from the requirements in Sections 17.38.260 through 17.38.330.

D. On-site auction sales are exempt from the requirements in Sections 17.38.260 through 17.38.330; providing the auction lasts no longer than one day, excluding set-up and take-down time.

E. Temporary uses allowed elsewhere in this title by special or conditional use permit are exempt from the provisions of Sections 17.38.260 through 17.38.330; however, consideration shall be given to the requirements herein when such special or conditional use permit application is considered.

F. Persons conducting rummage sales and garage sales shall not be considered “transient retail merchants” for the purposes of Sections 17.38.260 through 17.38.330.

G. Temporary uses occurring on public property after obtaining necessary approval are exempt from the provisions of Sections 17.38.260 through 17.38.330. Temporary sales facilities may be located within the public right-of-way only by approval of the council of commissioners. (Ord. 219 § 1(C), 1984; Ord. 53 § 170-8(C), 1978)

17.38.290 Temporary uses—Permitted uses.

Transient retail sales or itinerant produce sales shall be permitted only in C-2 (community commercial) and M-1 (light industrial zones). Seasonal commercial uses shall be permitted only in C-2 (community commercial), M-1 (light industrial) and M-2 (heavy industrial) zones. (Ord. 219 § 1(D), 1984; Ord. 53 § 170-8 (D), 1978)

17.38.300 Temporary uses—Facility and site.

A. Facilities and equipment used by transient retail merchants or itinerant produce merchants shall be portable. This requirement shall be deemed met if set-up time does not exceed ten minutes.

B. Temporary sales facilities shall not be located within the public right-of-way except by approval of the council of commissioners.

C. The location of the temporary sales facility shall be outside the twenty-five-foot sight triangle described in Section 17.36.040.

D. A twenty-foot front yard setback shall be maintained.

E. No temporary sales facility shall locate any apparatus closer than ten feet to a door of any permanent structure.

F. No temporary sales facility shall be located within fifteen feet of a fire hydrant.

G. No site shall be occupied continuously for a period greater than seven consecutive days by a transient retail merchant or itinerant produce merchant except, however, seasonal commercial uses may occupy a site for a period not to exceed thirty consecutive days.

H. Transient retail merchants or itinerant produce merchants shall keep the area of operation free of debris and shall clean the area thoroughly upon

ceasing operations. Transient retail merchants or itinerant produce merchants dispensing fast food items shall provide at least one trash container for use by patrons.

I. The expressed written consent of the property owner shall be presented prior to the issuance of a business license.

J. Approval of the temporary sales facility shall be obtained from the building inspector and the health department. (Ord. 219 § 1(E), 1984; Ord. 53 § 170-8(E), 1978)

17.38.310 Temporary uses—Parking facilities.

A. A minimum of four standard size parking spaces shall be provided and marked in a temporary manner.

B. Adequate ingress and egress shall be maintained.

C. Parking lots upon which temporary sales facilities are located must be in compliance with the requirements of Chapters 17.04 and 17.40, except that a license may be issued for a nonpaved lot.

D. Temporary sales facilities shall be located at least fifteen feet away from any traffic or fire lane in a parking lot. Temporary sales facilities shall be situated so as to minimize pedestrian traffic across any such lanes.

E. The location of temporary sales facilities shall not interfere with regular parking at the site.

F. Any site used or licensed for use for a temporary sales facility for more than thirty days in any successive twelve-month period shall be surfaced in accordance with the requirements in Section 17.40.050. (Ord. 219 § 1(F), 1984; Ord. 53 § 170-8(F), 1978)

17.38.320 Temporary uses—Signs.

Signs advertising the activities of transient retail merchants or itinerant produce merchants shall be attached to the surface of the temporary sales facility. Such signs shall be unlighted and shall not exceed twenty square feet in surface area. Sidewalk signs are not permitted. (Ord. 219 § 1(G), 1984; Ord. 53 § 170-8(G), 1978)

17.38.330 Temporary uses—Conformance.

To ensure compliance with the provisions of Sections 17.38.260 through 17.38.320, applicants for transient retail merchant or itinerant produce merchant licenses shall submit a site plan sketch and/or other information sufficient to determine whether the proposal is in compliance with Sections 17.38.260 through 17.38.320. (Ord. 219 § 1(H), 1984; Ord. 53 § 170-8(H), 1978)

Chapter 17.40

OFF-STREET LOADING AND PARKING

Sections:

- 17.40.010 Off-street parking and loading—Space required.**
- 17.40.020 Off-street parking—Building enlargement.**
- 17.40.030 Off-street parking—Location.**
- 17.40.040 Off-street parking—Access/ownership.**
- 17.40.050 Off-street parking—Residential encroachment.**
- 17.40.060 Off-street parking and loading—Exempted area.**
- 17.40.070 Off-street parking—Uses not mentioned in this title.**
- 17.40.080 Off-street parking—Mixed occupancies.**
- 17.40.090 Off-street parking—Ridesharing.**
- 17.40.100 Off-street parking—Joint use of spaces.**
- 17.40.110 Off-street parking—Conditions required for joint use.**
- 17.40.120 Off-street parking—Compact car parking spaces.**
- 17.40.130 Off-street parking—Size of parking space.**
- 17.40.200 Off-street parking—Handicapped requirements.**
- 17.40.300 Off-street parking—Surface and drainage.**
- 17.40.310 Off-street parking—Lighting.**

17.40.320 Off-street parking—Curbs.

17.40.330 Off-street parking—Traffic-control devices.

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17.40.500 Off-street loading—Access.

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17.40.900 Off-street parking—Table of minimum standards.

17.40.920 Off-street parking—Number of employees.

17.40.940 Off-street parking—Seating.

17.40.010 Off-street parking and loading—Space required.

There shall be provided at the time of erection or construction of any new building or structure, minimum off-street parking spaces and loading spaces meeting the provisions of this chapter. (Ord. 305 § 1 (part), 1987; Ord. 53 § 180-1, 1978)

17.40.020 Off-street parking—Building enlargement.

A. Enlargements of buildings shall provide the minimum required number of parking spaces for such enlargement. Enlargements greater than fifty percent of the existing building shall provide the number of parking spaces for the existing building and the new addition.

B. If the existing building has provided the required number of parking spaces, then no additional off-street parking spaces must be provided for an enlargement, unless the number of spaces required for the enlargement is ten percent or more of the number of spaces required for the existing building. (Ord. 305 § 1 (part), 1987; Ord. 164 § 1(D), 1982; Ord. 90 § 1(F, G), 1979; Ord. 53 § 180-2, 1978)

17.40.030 Off-street parking—Location.

A. Off-street parking areas required by this chapter shall be located as specified in this chapter. Where a distance is specified, such distance shall be measured by a straight line from the nearest point of the building to the nearest point of the lot serving such building, unless otherwise stated.

B. For single-family and multifamily dwellings, off-street parking is required on the same tract with the dwelling they are required to serve.

C. For sanitariums, apartments, lodging and boarding houses, and retirement homes, off-street parking areas are required within one hundred feet of the building to be served.

D. For uses other than those specified in this section, off-street parking areas are required within two hundred fifty feet. (Ord. 305 § 1 (part), 1987; Ord. 53 § 180-3, 1978)

**17.40.040 Off-street parking—
Access/ownership.**

A. Off-street parking areas must be accessible by a public street or alley, and shall be owned/leased by the owner/lessee of the building or use being served by such parking. Such parking lot shall be maintained as a parking lot so long as the building and/or use served is in operation or until another suitable parking area is established for such building or use.

B. There shall be no vehicular access to the parking area from a street which is a boundary of an “R” zone and toward which the rear of the building faces, except by a conditional use permit from the board of adjustment. (Ord. 305 § 1 (part), 1987; Ord. 90 § 1(H), 1979; Ord. 53 § 180-4, 1978)

**17.40.050 Off-street parking—Residential
encroachment.**

Off-street parking areas may be established in any residential zone that immediately joins a commercial or industrial zone, or is directly across an alley from a commercial or industrial zone, provided such parking shall be accessory to and for use of one or more business or industrial establishments located in the adjoining commercial or industrial zone. Such transitional use shall not extend more than one hundred thirty feet from the boundary of the less restricted zone. (Ord. 305 § 1 (part), 1987; Ord. 258 § 2 (part), 1985; Ord. 90 § 1(I), 1980; Ord. 53 § 180-5, 1978)

**17.40.060 Off-street parking and loading—
Exempted area.**

Any establishment located within the C-3 zone (or any other zone) shall be exempt from the requirements in this chapter when participating in an approved Butte-Silver Bow parking district. (Ord. 305 § 1 (part), 1987; Ord. 258 § 2 (part), 1985; Ord. 53 § 180-6, 1978)

**17.40.070 Off-street parking—Uses not
mentioned in this title.**

In the case of a use not specifically mentioned in this title, the requirements for the most nearly similar use which is so mentioned shall apply. The decision of the zoning officer as to what is the most nearly similar use shall apply. (Ord. 305 § 1(part), 1987; Ord. 53 § 180-7, 1978)

**17.40.080 Off-street parking—Mixed
occupancies.**

In the case of mixed occupancies, the total parking spaces required shall be the sum total of the spaces required for each individual use. Off-street parking facilities for one occupancy shall not be considered as a substitute for joint use, unless the conditions of the occupancies conforms with the requirements of Section 17.40.100. (Ord. 305 § 1 (part), 1987; Ord. 53 § 180-8, 1978)

17.40.090 Off-street parking—Ridesharing.

Any business or industry implementing a ridesharing program may apply to the board of adjustment for a reduction of the required number of off-street parking stalls. (Ord. 305 § 1 (part), 1987; Ord. 53 § 180-9, 1978)

**17.40.100 Off-street parking—Joint use of
spaces.**

The planning director may authorize the joint use of off-street parking facilities for the following uses or activities under the conditions specified:

A. Up to fifty percent of the required off-street parking for primarily nighttime uses such as theaters, bowling alleys, bars or supper clubs may be supplied by the parking requirements for primarily daytime uses such as banks, offices, retail and personal service establishments;

B. Up to fifty percent of the parking facilities required by this title for churches or auditoriums may be supplied by the parking facilities provided for uses primarily of daytime nature. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-10, 1978)

17.40.110 Off-street parking—Conditions required for joint use.

A. Location. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use, shall be located within two hundred fifty feet of such parking facilities.

B. Operating Hours. The applicant shall show that there is, and will be, no substantial conflict between the principal operating hours at the two buildings or uses, for which joint use of off-street parking facilities is proposed, and shall show that there are, and will be, no conflicting demands for such parking by the respective employees, customers and clients of the two buildings or uses. Each off-street parking stall shall be shared only once.

C. Signed Agreement. The applicant shall present to the zoning officer a legal agreement executed by the parties concerned for joint use of off-street parking facilities. The legal document shall be approved by the Butte-Silver Bow county attorney and the approved agreement shall be filed by the applicant with the Butte-Silver Bow clerk and recorder.

D. Termination. In case of termination or dissolution of any such lease or agreement, the agreement shall require that the applicant notify the Butte-Silver Bow zoning officer and, each use previously provided off-premises or off-site parking thereunder shall cease within thirty days of termination or dissolution of agreement until adequate off-street parking, meeting the requirements of this chapter, is again provided. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-11, 1978)

17.40.120 Off-street parking—Compact car parking spaces.

A. In all parking facilities containing fifteen or more parking spaces, a maximum of twenty-five percent of the required parking spaces may be reduced in size for the use of compact cars, provided these spaces shall be clearly identified with a sign permanently affixed immediately in front of each space containing the notation, "Compacts Only." Spaces designed for compact cars may be reduced in size to a minimum of seven and one-half feet in width and fifteen feet in length.

B. Where feasible, all compact car spaces shall be located in one or more contiguous areas and/or adjacent to ingress-egress points within parking facilities. Location of compact car parking spaces shall not create traffic congestion or impede traffic flows. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-12, 1978)

17.40.130 Off-street parking—Size of parking space.

A. Refer to Table "A" to determine minimum requirements of aisle widths and off-street parking spaces. (Exhibit "A" as attached to the ordinance codified in this chapter on file in the clerk and recorder's office.)

B. Refer to Table "B" to determine minimum requirements of aisle widths and off-street parking spaces for compact car spaces. (Exhibit "B" as attached to the ordinance codified in this chapter on file in the clerk and recorder's office.) (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-13, 1978)

17.40.200 Off-street parking—Handicapped requirements.

Parking spaces shall be provided for the handicapped and shall be clearly signed or marked with a stenciled notation on the pavement designating for such use and shall be posted with an approved handicapped parking sign directly in front of the stall. Each such space shall be at least eight feet wide and shall have an adjacent access aisle five feet wide minimum. Two accessible parking spaces may share a common access aisle. Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 in all directions. Parking spaces shall be located closest to the handicapped-accessible entrance with an accessible route provided to that entrance. Parking spaces for the handicapped shall be provided as follows:

Minimum Number Total Required For the Parking Provided	Handicapped
6—25spaces	1 space
26—50spaces	2 spaces
51—75spaces	3 spaces
76—100 spaces	4 spaces
101—150 spaces	5 spaces
151—200 spaces	6 spaces
201—300 spaces	7 spaces
301—400 spaces	8 spaces
401—500 spaces	9 spaces
501—1000 spaces	2 percent of total
1001 spaces and over	20 plus 1 for each
100 over 1000	

(Ord. 305 § 1 (part), 1987: Ord. 53 § 180-20, 1978)

17.40.300 Off-street parking—Surface and drainage.

Off-street parking areas except residential shall be surfaced with cement concrete or asphaltic material and shall be maintained in a dust-free condition. Surfacing and drainage shall be designed by accepted engineering methods and subject to the approval of the Butte-Silver Bow department of public works. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-30, 1978)

17.40.310 Off-street parking—Lighting.

Lighting used to illuminate a parking area shall be arranged in such a manner that it will not be a hazard to passing motorists or constitute a nuisance of any kind. Where said parking area is within one hundred fifty feet of any property zoned residential by this chapter and where the parking area is directly visible from such residences within one hundred fifty feet, illuminating devices shall be shaded in a manner that would direct light away from the residential property. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-31, 1978)

17.40.320 Off-street parking—Curbs.

A raised bumper curb of concrete six inches high or asphalt is required for all parking stalls adjacent to property lines, fences, sidewalks, landscaped areas and walls. Subject to approval, this requirement may be modified provided other design features will be as equally effective in prohibiting vehicle encroachment. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-32, 1978)

17.40.330 Off-street parking—Traffic-control devices.

Parking stalls shall be designated by pavement markings. All traffic-control devices such as pavement markings, signs, rails, curbs and other developments shall be installed and completed as shown on the approved plans. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-33, 1978)

17.40.340 Off-street parking—Maintenance.

Maintenance of all areas provided for off-street parking shall include removal and replacement of dead and dying trees, grass and shrubs, removal of dirt, trash and weeds, repair and maintenance of drainage and repair of traffic control devices, signs, lights, standards, fences, walls, surfacing materials, curbs, sidewalks and railings. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-34, 1978)

17.40.350 Off-street parking—Accesses.

The accesses to parking lots will be governed by the curb cut policy of the city engineering department or the Montana Department of Highways, depending upon jurisdiction. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-35, 1978)

17.40.500 Off-street loading—Access.

Each off-street loading berth shall be provided access to a street or alley, and such access shall be so designed and provided that its use does not interfere with traffic movement. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-50, 1978)

17.40.510 Off-street loading—Location near residential zone.

No off-street loading berth shall be located closer to any lot zoned for residential use, than fifty feet, unless screened by a wall or solid fence, or combination thereof, which shall be not less than six feet high. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-51, 1978)

17.40.520 Off-street loading—Size of berth.

Each off-street loading berth shall be at least ten feet by fifty feet in size and fourteen feet high. Length of loading berths for vehicles other than semitractor trailers may be reduced from fifty feet to thirty-five feet. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-52, 1978)

17.40.530 Off-street loading—Parking space.

Loading berths shall not be considered as off-street parking spaces. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-53, 1978)

17.40.540 Off-street loading—Location within building.

All or part of the required loading berths may be within buildings. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-54, 1978)

17.40.550 Off-street loading—Table of minimum standards.

Off-street loading berths shall be provided in accordance with the requirements that follow. Berths shall be provided and maintained on the same tract with the building they are required to serve. If more than one use is combined in one building, the combined number of berths shall be provided. Where uses are not specifically mentioned in this chapter, the requirements for the most nearly similar use which is so mentioned shall apply. The decision of the zoning officer as to what is the most nearly similar use shall apply.

Use	Gross Floor Area Square feet	Number of Berths Required
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Schools	20,000 — 100,000	1
Each additional 100,000		1 additional
Office buildings and hotels/motels establishments	10,000 — 40,000	4
Each additional 100,000		1 additional
Hospitals and sanitariums	10,000 — 250,000	1
Each additional 250,000		1 additional
Mortuaries and funeral homes	5,000 — 50,000	5
Each additional 100,000		1
Community, recreational	10,000 — 100,000	1
Each additional 100,000		1 additional
Auto, furniture, equipment sales, auto service business	10,000 — 40,000	4
Each additional 50,000		1 additional

Department store, variety store, other retail stores and restaurants 7,000 — 20,0001
20,000 — 50,0002
50,000 — 100,0003
Each additional 100,0001 additional

Public assembly uses, such as: auditoriums, convention halls,
exhibition halls or sport arenas
150,000 — 300,0002
Each additional 300,0001 additional

Industrial, manufacturing, warehouse, storage and wholesale,
freight terminal 7,000 — 40,0001
40,000 — 65,0002
65,000 — 100,0003
Each additional 100,0001 additional
(Ord. 305 § 1 (part), 1987; Ord. 53 § 180-55, 1978)

17.40.600 Cash in lieu of parking.

Within the C-3 zone, where, because of physical constraints, topography, location or other circumstances, the developer may request that the zoning board of adjustment consider, upon referral, review and receipt of recommendation from the parking commission, that a cash donation in lieu of required parking be accepted. The amount of the donation to be considered fair and equitable will be determined in the following manner:

A. The developer will furnish a valid appraisal by a full-time real estate appraiser of the land within a reasonable distance of the proposed development and determine average value per square foot of all land examined. This appraisal shall be approved by the Butte-Silver Bow council of commissioners.

B. The required amount of parking spaces for such development shall be determined according to the applicable provisions contained in this chapter.

C. The average square footage deemed necessary for establishing each parking space shall be three hundred seventy-five square feet. This includes space for

ingress and egress, landscaping, travel lanes and lighting.

D. The number of parking spaces required under subsection B of this section will then be multiplied by the three hundred seventy-five square feet required per space contained in subsection C of this section to arrive at a total square footage required.

E. The cash in lieu, for land acquisition only, shall then be determined by multiplying the average cost per square foot ~~20,000~~ ^{150,000} determined in subsection A of this section by the total square footage required in subsection D of this section.

F. In addition, the developer shall also donate cash in lieu of all related improvements. The cost figure for landscape improvements shall be based on twenty-five square feet per required parking space plus one tree per five parking spaces. The cost figure shall be the current value as on file in the planning office.

G. The sum of subsections E and F of this section will determine the total cash in lieu donation for required parking.

H. The cash in lieu payment shall become property of the Butte-Silver Bow parking commission and shall be placed in a special fund used only for the acquisition and development of off-street parking facilities within the C-3 zone. (Ord. 305 § 1 (part), 1987; Ord. 53 § 180-60, 1978)

17.40.800 Off-street parking—Completion bond required.

Before a building permit will be issued for the construction of any industrial or commercial building or addition thereto, the developer or his/her authorized representative shall submit a completion bond to the zoning officer to ensure that the parking as required in this chapter is properly installed. The completion bond shall be in the amount of one hundred ten percent of the total cost of the parking improvement. (Ord. 305 § 1 (part), 1987; Ord. 53 § 180-80, 1978)

17.40.810 Off-street parking—Completion bond not required.

A completion bond is not required to be provided if the developer/owner or his/her authorized representative meets the following requirements:

A. The developer/owner shall provide Butte-Silver Bow with an architect-owner agreement which states the architect will prepare, interpret and execute the contract documents, including construction administration;

B. The developer/owner shall provide Butte-Silver Bow with the contract documents as defined in Article 1, Paragraph 1.1.1 in the general conditions of the contract for construction, AIA Document A201 or approved equivalent;

C. The developer/owner shall provide Butte-Silver Bow with a performance bond and labor and material payment bond as defined in Article 7, Paragraph 7.5 and 7.5.1 in the general conditions of the contract for construction, AIA Document A201 or approved equivalent;

D. The developer/owner shall sign a written agreement stating that the work stated in the construction contracts for parking shall be performed and no modifications to this work shall be made without the approval of the zoning officer. This agreement shall be approved by the Butte-Silver Bow county attorney. (Ord. 305 § 1 (part), 1987; Ord. 53 § 180-81, 1978)

17.40.820 Bonding—Cost figure.

The total cost figure for purposes of bonding for the completion of the parking shall be provided by the zoning officer and shall be based on current prevailing costs of materials and installation of parking area. The cost figure shall be known as the principal amount and shall be the current value as on file in the planning office. (Ord. 305 § 1 (part), 1987; Ord. 53 § 180-82, 1978)

17.40.830 Bonding—Form.

Completion bonds may be in the form of cash, letter of credit, certificate of deposit or surety bond executed by a company authorized to do business in the state of Montana and will be released only after the zoning officer or his representative has inspected the parking improvements and found that all required parking has been properly installed.

Real property bonds will be accepted as a completion bond only upon approval of the council of commissioners. The value of real property pledged as security must be unencumbered in at least twice the principal amount. All real property bonds shall be recorded as provided by the laws of the state for encumbrances upon real property, and foreclosure upon such real property bonds shall be as provided by state law. (Ord. 305 § 1 (part), 1987; Ord. 53 § 180-83, 1978)

17.40.840 Off-street parking—Improvement time.

Installation of parking improvements shall be completed within twelve months following the issuance of the building permit. Parking improvements, for building projects where the length of time of construction will extend beyond the twelve-month period, shall be completed within a length of time as approved by the zoning officer. (Ord. 305 § 1 (part), 1987; Ord. 53 § 180-84, 1978)

17.40.850 Off-street parking—Failure to complete.

Failure to complete the installation of the parking improvements within the allotted time shall be deemed a forfeiture of the completion bond. When the completion bond is a letter of credit, cash deposit or surety bond, the local government shall utilize such securities to ensure the installation of the parking improvements. When the completion bond is a real property bond, the owners of the real property shall be held responsible for the installation of the parking improvements and in the event of their failure to act, the real property pledged shall be subject to foreclosure as provided by Montana law. (Ord. 305 § 1 (part), 1987: Ord. 53 § 180-85, 1978)

17.40.900 Off-street parking—Table of minimum standards.

Required parking spaces shall be in conformance with the following table and where alternative standards are indicated, the greater requirement applies in conflicting computation; where the total quota results in a fraction, the next highest full unit shall be provided. Classification of use shall be defined by the Standard Industrial Classification Manual, 1972.

1. Residential single-family dwelling*: two parking spaces per dwelling unit;
2. Residential multifamily dwelling*: one and one-half parking spaces per dwelling unit;
3. Elderly housing (change in use to apartments will require additional parking): one parking space per four dwelling units;
4. Boarding, lodging houses and similar uses: one parking space per dwelling unit and one space per boarding, lodging unit;
5. Apartments: one and one-half parking spaces per dwelling unit;
6. Motels/hotels: one parking space per two guest rooms or suites and one parking space per five seats maximum capacity combined banquet rooms and fifty percent of restaurants/bars, etc.;
7. Hospitals: one parking space per two beds and one parking space per staff doctor and one parking space per two employees;

8. Nursing, convalescent, rest homes: one parking space per three beds;

9. Day care and nursery: one parking space per employee, one parking space per six children;

10. School: elementary, junior high (public, private or parochial): one parking space per employee and one parking space per two classrooms;

11. School: high school, college (public, private or parochial): one parking space per employee and one per five students;

12. Business and professional offices, banks: one parking space per three hundred square feet of floor area, minimum of four parking spaces;

13. Medical and dental offices: one parking space per two-hundred fifty square feet of floor area, minimum of four parking spaces;

14. Libraries and museums: one parking space per one thousand square feet of floor area;

15. Theaters, auditoriums, sports arenas and assembly halls with fixed seats: one parking space per four seats;

16. Skating rinks, dance halls, recreation establishments: one parking space per two hundred square feet of floor area;

17. Bowling alleys: five parking spaces per alley;

18. Churches and similar places of assemblies: one parking space per six seats;

19. Mortuaries and funeral homes: one parking space per four seats;

20. Private clubs and lodges: one parking space per two hundred square feet of floor area;

21. Restaurants and bars (includes pizza): one parking space per four seats or one parking space per one hundred fifty square feet of floor area;

22. Restaurants, fast food (carry-out and counter service): one parking space per one hundred square feet of floor area and one parking space per employee or one parking space per two seats and one parking space per employee;

23. Restaurants, fast food with drive-through window: one parking space per two seats or one parking space per one hundred square feet of floor area. Stacking lane: minimum of three spaces when accessed from a minor street or minimum of five spaces when

accessed from an arterial street, not counted towards required parking spaces;

24. Retail stores—Under five thousand square feet: one space per two hundred fifty square feet of floor area, minimum of four parking spaces;

25. Retail stores—Over five thousand square feet: twenty parking spaces plus one space per four hundred square feet above five thousand square feet;

26. Furniture, appliance, household and equipment sales: one parking space per six hundred square feet;

27. Open sales area, trailer sales and rental, mobile home sales and garages: one parking space per one thousand five hundred square feet of sales area;

28. Service stations, auto repair and services: one parking space per six hundred square feet and one parking space per dispenser station or lube/repair bay. Minimum of four parking spaces. Pump lanes: not counted as parking spaces;

29. Convenience/gas combination: four parking spaces minimum. One parking space per four hundred square feet of floor area. Pump lanes: not counted as parking spaces;

30. Motor vehicle, boat showrooms, machines, plumbing, heating, contractors, ventilating, upholstery, building material supplies, sales and service: one parking space per one thousand square feet;

31. Manufacturing, productions, testing or repair of materials or commodities: one parking space per one thousand square feet or three-quarters space per employee;

32. Wholesale establishments (not engaged in normal retail operations): three parking spaces first one thousand square feet and one additional space per additional five thousand square feet;

33. Warehousing or storage buildings, freight terminals: one parking space per two thousand square feet for first ten thousand square feet and one additional parking space per additional ten thousand square feet. Warehouses with office space exceeding six hundred square feet shall be computed as an office warehousing mixed occupancy. (Ord. 393 § 1, 1990; Ord. 305 § 1 (part), 1987; Ord. 53 § 180-90, 1978)

* Residential dwellings exempt from building enlargement requirement.

17.40.920 Off-street parking—Number of employees.

“Number of employees” means the greatest number of employees who are or may be on the premises during any one average working shift or period of time of the day or night, as determined by the zoning officer. (Ord. 305 § 1 (part), 1987; Ord. 53 § 180-92, 1978)

17.40.940 Off-street parking—Seating.

In areas such as auditoriums, churches, theaters, etc., where number of off-street parking spaces are based on fixed seating and seats are not fixed, seven square feet of floor area per seat shall apply. For other uses refer to the Uniform Building Code, Table No. 33-A. (Ord. 305 § 1 (part), 1987; Ord. 53 § 180-94, 1978)

Chapter 17.42

SIGNS*

Sections:

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17.42.100	Removal.
17.42.110	Compliance.

17.42.010 Purpose.

The intent of this title shall be to coordinate type, placement and physical dimensions of signs within the different land use zones; to recognize the commercial communication requirements of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to mitigate the impacts of commercial signs on Butte's surrounding natural scenic beauty; to allow for special circumstances; and to guarantee equal treatment under the law through accurate recordkeeping and consistent enforcement. These shall be accomplished by regulation of the display, erection, use and maintenance of signs. The use of signs is regulated according to zone. The placement and physical dimensions of signs are regulated primarily by length of street frontage and zoning district. No sign shall be permitted as a main or accessory use except in accordance with the provisions of this title. (Ord. 447 § 1, 1993; Ord. 281 § 1(A) (part), 1986)

17.42.020 Scope.

This chapter shall not relate to building design, nor shall the chapter regulate official traffic or government signs; the copy and message of signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government, or noncommercial organization; gravestones; barber poles; religious symbols; commemorative plaques; the display of street numbers; or any display or construction not defined herein as a sign.

Thus, the primary intent of this chapter shall be to regulate signs of a commercial nature intended to be viewed from any vehicular public right-of-way. (Ord. 281 § 2(A) (part), 1986)

17.42.030 Definitions.

For the purposes of this section, the following definitions shall be used in the interpretation of this section:

1. "Abandoned sign" means a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.
2. "Awning" means a temporary shelter supported entirely from the exterior wall of a building.
3. "Awning sign" means a sign painted on, printed on, or attached to the surface of an awning.
4. "Banner sign" means a sign made of fabric or any nonrigid material with no enclosing framework.
5. "Billboard" means a sign larger than two hundred fifty square feet in area which is designed to advertise products, services or businesses not located on the premises on which the sign is located. A sign shall not be considered "billboard" unless the sign is designed with a surface on which temporary poster panels of bulletins are mounted for the purpose of conveying a visual advertising message.
6. "Changeable copy sign (automatic)" means a sign on which the copy changes automatically on a lampbank or through mechanical means, e.g., electrical or electronic time and temperature units.
7. "Changeable copy sign (manual)" means a sign on which copy is changed manually in the field, e.g., readerboards with changeable letters.
8. "Clearance (of a sign)" means the smallest vertical distance between the grade of the adjacent street or street curb and the lowest point of any sign, including framework and embellishments, extending over that grade.
9. "Construction signs" means a temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.
10. "Copy" means the wording of a sign surface in either permanent or removable letter form.
11. "Development complex" means a complex under one ownership and/or management control. A development complex must have three or more different enterprises, institutions, or franchises. These regula-

tions apply to development complexes located in the C-2 and C-3 zones.

12. “Directional/information sign” means an on-premises sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs.

13. “Double-faced sign” means a sign with two faces.

14. “Electrical sign” means a sign or sign structure in which electrical wiring, connections, or fixtures are used.

15. “Facade” means the entire building front including the parapet.

16. “Face of sign” means the area of a sign on which the copy is placed.

17. “Festoons” means a string of ribbons, tinsel, small flags, or pinwheels.

18. “Freestanding sign” means a sign supported upon the ground by poles or braces and not attached to any building.

19. “Frontage, building” means any side of a building which faces a public right-of-way.

20. “Frontage, street” means the length of the property line of any premises along any public street on which it has a curb cut.

21. “Government sign” means any temporary or permanent sign erected and maintained by the city, county, state, or federal government for traffic direction or for designation of or direction of any school, hospital, historical site, or public service, property, or facility.

22. “Height (of a sign)” means the vertical distance measured from the highest point of the sign, including decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less (compare “Clearance” in subsection 8 of this section).

23. “Home occupation sign” means a sign as permitted in the home occupation chapter of this title.

24. “Incidental sign” means a small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises, e.g., a credit card sign or a sign indicating hours of business.

25. “Maintenance” means for the purposes of this chapter, the cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

26. “Nonconforming sign” means:

a. A sign which was erected legally but which does not comply with subsequently enacted sign restrictions and regulations;

b. A sign which does not conform to the sign code requirements but for which a special permit has been issued.

27. “Off-premises sign” means a sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located, including billboards or outdoor advertising.

28. “On-premises sign” means a sign which pertains to the use of the premises on which it is located.

29. “Owner” means a person recorded as such on official records. For the purposes of this chapter, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the zoning enforcement officer, e.g., a sign leased from a sign company.

30. “Painted wall sign” means any sign which is applied with paint or similar substance on the face of a wall.

31. “Parapet” means the extension of a false front or wall above a roofline.

32. “Point of purchase display” means advertising of a retail item accompanying its display, e.g., an advertisement on a product dispenser.

33. “Pole cover” means covers enclosing or decorating poles or structural supports of a sign.

34. “Political sign” means for the purposes of this title, a temporary sign used in connection with a local, state, or national election or referendum.

35. “Portable sign” means any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

36. “Premises” means a tract of record in private partnership or corporate ownership.

37. “Projecting sign” means a sign, other than a flat wall sign, which is attached to and projects from a

building wall or other structure not specifically designed to support the sign.

38. "Restoration" means maintenance or repair, within a forty-eight month period, of a sign which exceeds fifty percent of said sign's appraised replacement cost.

39. "Roofline" means the top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

40. "Roof sign" means any sign erected over or on the roof of a building.

41. "Roof sign, integral" means any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

42. "Sign" means any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

43. "Sign area" means a sign area as described in Section 17.42.040C.

44. "Sidewalk sign" means a sign which rests on the ground, and which is not permanently attached to the ground or other structure.

45. Vision Clearance Triangle (Corner). On any corner lot in which a front yard is required by this title, no sign shall be maintained which will materially impede vision between a height of zero and ten feet above the centerline grades of the intersecting streets within a triangular area formed by the intersecting property lines nearest the streets and a straight line joining said property lines as points which are twenty-five feet distant from the point of intersection measured along said property lines. Pole diameters must not exceed eight inches within this triangle.

46. Vision Clearance Triangle (Driveways and Alleys). On any driveway or alley upon which access is obtained from a public right-of-way, there shall be a vision clearance triangle maintained in which no sign

will materially impede vision between a height of zero and ten feet above the centerline grade of the access and the street. The triangle is measured from the property lines and extends twenty feet parallel to the public right-of-way and ten feet parallel to the driveway or alleyway. Pole diameters may not exceed eight inches within this triangle.

47. "Wall sign" means a sign attached parallel to and extending not more than twelve inches from the wall of a building. This definition includes painted, individual letter, and cabinet signs.

48. "Window sign" means a sign installed inside a window and intended to be viewed from the outside. (Ord. 447 § 2, 1993; Ord. 281 § 1(A) (part), 1986)

17.42.040 General provisions.

A. Signs Prohibited.

1. Abandoned signs unless otherwise allowed by the historical commission;

2. Signs imitating or resembling official traffic or government signs or signals;

3. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign. This does not apply to allowed portable signs or to signs or lettering on buses, taxis or vehicles operation during the normal course of business;

4. Any signs above forty feet in height, unless otherwise permitted herein;

5. Any sign which violates the requirements of vision clearance located in Section 17.42.030;

6. No signs shall encroach into a public right-of-way unless an encroachment permit is granted by the council of commissioners or highway department, depending on jurisdiction;

7. Signs which encroach into the conical zone as defined by the Federal Aviation Administration;

8. Signs that because of location, size, illumination, nature or type constitute or tend to constitute a traffic hazard to safe and efficient operation of vehicles or create a condition which endangers the safety of persons or property;

9. Signs that create undue glare on residences in residential zones.

B. Permits Required. Unless otherwise provided by this title, all signs shall require permits as described in Section 17.42.090.

C. Sign Area Determination.

1. Projecting and Freestanding Signs. The area of a freestanding, double-faced sign shall have only one face (the largest one) counted in calculating its area.

The largest portion of the sign that can be seen from a direction at any one time shall constitute a sign face. For example, cubed signs shall have two sides counted as one face in calculating area. Pole covers and other embellishments shall not be included in the area of measurement provided that there is not written advertising copy on such embellishments.

2. Wall Signs and Awning Signs. The area shall be within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the advertising message. If the sign is composed of individual letters or symbols using the wall as the background with no added decoration, the total sign area shall be calculated by measuring the area within the perimeter of each symbol or letter. The combined areas of the individual figures shall be considered the total sign area.

D. Lighting. Unless otherwise specified by this title, all signs may be illuminated, however, no sign regulated by this title may utilize any revolving, stroboscopic or beacon light or any light having the appearance of lighting used for emergency purposes such as police, ambulance, snowplow, fire trucks, etc.

E. Changeable Copy. Unless otherwise specified by this title, any sign herein allowed may use manual or automatic changeable copy. (Ord. 281 § 1(A) (part), 1986)

17.42.050 On-premises signs.

A. On-premises Signs Permitted in All Zones Which Do Not Require a Permit. The following types of signs are exempt from permit requirements but must be in conformance with all other requirements of this title.

1. Temporary signs advertising the sale, lease, or rental of the premises upon which the sign is located. Only one sign may be placed per street frontage. The

size of such sign shall be a maximum of six square feet for residential property and a maximum of thirty-two square feet for all other properties. Such signs shall be removed within seven days following the leasing or closing date of the sale;

2. Signs bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial connotations;

3. Flags and insignia of any government except when displayed in connection with commercial promotion;

4. Legal notices; identification or information signs erected or required by governmental bodies;

5. Directional/informational signs less than five square feet or less in area;

6. Political signs are permitted on private property in any zoning district with the expressed consent of the owner or occupant of such property. Such signs may not be posted more than sixty days prior to the election and must be removed by those responsible for the erection of the sign or the property owner within seven days following the election. Such sign shall not exceed sixteen square feet in area and shall not exceed six feet in height. Election signs shall not encroach into the public right-of-way and must meet the requirements of the vision clearance triangle;

7. Construction Signs. One building construction sign per construction project not exceeding thirty-two square feet in sign area in residential districts or sixty-four square feet in sign area in all other districts, provided that such signs shall be erected no more than five days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction, and shall be removed five days after issuance of an occupancy certificate or completion of construction and prior to occupancy;

8. Holiday or special events decorations;

9. Window signs;

10. Incidental signs;

11. Bulletin boards for churches, schools or other public, religious or educational facilities but must be reviewed by the zoning enforcement officer and issued a no-fee permit;

12. Point of purchase displays.

B. On-premises Signs Permitted in Residential Zones.

1. All signs permitted in subsection 17.42.050A of this title;

2. Home occupation signs not exceeding one square foot.

C. On-premises Signs Permitted in Commercial and Industrial Zones.

1. All signs permitted in subsection 17.42.050A of this title;

2. Each developed parcel is permitted a maximum of three freestanding signs, provided that no two freestanding signs are less than one hundred fifty frontage feet apart. Freestanding signs must be adjacent to a public street or highway on which the property borders. Freestanding signs are permitted one square foot of sign area for each linear foot of street frontage, but shall not exceed the following regulations. The following provisions regulate the sign area per frontage and/or individual sign and the height of signs:

a. Individual freestanding signs located in the C-1, C-M, M-1 and M-2 districts shall not exceed one hundred seventy-five square feet in sign area. Where a developed parcel is permitted to have more than one freestanding sign, each frontage is permitted a total of one hundred seventy-five square feet of sign area. Such signs shall not exceed thirty feet in height,

b. The height of individual freestanding signs located within the C-2 and C-3 districts is determined by the location of the sign within those zones. The total permitted sign area of freestanding signs in the C-2 and C-3 districts is determined by the height and frontage of the property. The following provisions shall regulate freestanding signs within the C-2 and C-3 districts:

i. Sign signs shall not exceed forty feet in height except per the following provision. Freestanding signs not to exceed sixty feet in height will be permitted within one-half mile of the median of 1-90/15 interstate where it intersects with Harrison Avenue or Montana Street. All other freestanding signs in the C-2 and C-3 zones shall not exceed forty feet in height,

ii. Signs which are forty feet or less in height shall not exceed three hundred square feet in area. Signs

which are between forty-one to sixty feet in height shall not exceed one hundred seventy-five square feet in area,

iii. Where a developed parcel is permitted to have more than one freestanding sign, each frontage is permitted a total of three hundred square feet of sign area,

iv. All freestanding signs shall be set back five feet from the property line and shall follow construction, clearance and projection specifications of the Uniform Sign Code;

3. Each development complex shall be allowed one freestanding sign per frontage. One freestanding sign will be permitted two square feet of sign area for each linear foot of street frontage, but shall not exceed a maximum permitted square footage of three hundred seventy-five square feet. Where a developed parcel is permitted to have more than one freestanding sign, the additional sign cannot exceed one hundred square feet in sign area;

4. One roof sign not to exceed ten feet above the building roofline;

5. One awning sign per occupancy providing that the face of said sign is included in the total allowable or wall sign area calculation. All awnings must follow construction and clearance and projection specifications of the Uniform Building Code;

6. Banner signs are permitted as follows:

a. Banner signs (public right-of-way) — banner signs may be suspended across a public right-of-way subject to the following conditions:

i. Letter(s) of permission from property owner(s) whereupon banner signs are secured,

ii. Banner sign location must be approved by the zoning officer, and

iii. Messages are limited to public service messages.

b. Banner signs (private property) — banner signs may be securely attached to a structure, the wall of a building or canopy as follows:

i. One banner sign per occupancy providing that the face of said sign is included in the total allowable wall sign area calculation,

ii. Banner signs shall not direct attention to a for-profit business, commodity, service or entertainment not related to the premise at which the sign is located;

7. One or more wall signs per building frontage which meet the following requirements:

a. Total wall sign area in the C-1, C-M, M-1, and M-2 zones shall not exceed thirty percent of the building facade to which it is attached, per street frontage. When a business has more than one street frontage, but does not have a main entrance on the additional street frontage, such building frontage may contain a wall sign not exceeding twenty square feet of total sign area,

b. Total wall sign area in the C-2 and C-3 zones shall not exceed forty percent of the building facade to which it is attached, per street frontage. When a business has more than one frontage, but does not have a main entrance on the additional frontage, such frontage may contain a wall sign not exceeding thirty square feet of total sign area,

c. Multiple occupancy buildings shall submit a sign plan conforming with this section which will coordinate signage for the entire project. The sign plan shall include the building facade area for each separate occupancy and proposed wall sign area for each occupancy. Each occupancy's allowable wall sign area will be determined by the occupancy's building facade area. Any variation to the approved sign plan must be approved by the zoning administrator;

8. One projecting per occupancy. All projecting signs must follow construction and clearance and projection specifications of the Uniform Sign Code;

9. One portable sign per premises subject to the following requirements:

a. Such signs maintain a five-foot setback from the property line,

b. Such signs shall be included within the allowable freestanding sign area calculation,

c. Any portable signs located on the public right-of-way shall be subject to removal by the zoning administrator without notice unless otherwise permitted in this chapter.

D. On-premises Signs Allowed in C-3 Zones.

1. Any signs allowed in subsection C of this section;

2. Sidewalk signs; provided, that such signs will not interrupt or hinder the free use, or will in any manner endanger the safety of persons using such side-

walks or walkways. Sidewalk commercial signs shall be permitted; provided, that:

a. No such sign may be lighted or use electricity,

b. No such sign may be larger than five feet in height or three feet in width,

c. No such sign may hang in a manner which would allow any swing movement,

d. Signs must be removed during hours which the business is not in operation, and

e. Persons placing signs must obtain an encroachment permit from the council of commissioners for signs that are placed within the public right-of-way.

E. On-premises Signs Permitted in Historical Overlay Zone.

1. Signs permitted in the historical overlay zone shall include those signs permitted in the underlying zone according to this title;

2. Restoration, maintenance or relocation of any sign which has been deemed historically significant by the historic preservation commission;

3. Due to the unique nature of the historical overlay zone, change of copy design or alterations to non-conforming signs or new signs which do not meet the aforementioned subdivisions 1 and 2 of this subsection E shall be allowed if designed to contribute to the historical significance of the overlay zone, and reviewed and approved by the historic preservation commission. (Ord. 447 § 3, 1993; Ord. 281 § 1(A) (part), 1986)

17.42.055 Freestanding signs—Development complexes.

Each development complex shall be allowed one freestanding sign per frontage. One freestanding sign will be permitted two square feet of sign area for each linear foot of street frontage, but shall not exceed a maximum permitted square footage of three hundred seventy-five square feet. Where a developed parcel is permitted to have more than one freestanding sign, the additional sign cannot exceed one hundred square feet in sign area. (Ord. 447 § 4, 1993)

17.42.060 Off-premises signs.

A. Off-premises signs are prohibited in all residential zoning districts.

B. Off-premises signs permitted in C-2, C-3, C-M, M-1 and M-2 zones per the following requirements:

1. Shall not exceed one hundred square feet in area;
2. Shall not exceed twenty feet in height;
3. Shall not be illuminated;
4. Shall comply with Section 17.42.040 of the Butte-Silver Bow zoning ordinance.

C. Billboards may be permitted adjacent to a federal aid primary highway or interstate highway, per the following regulations:

1. Located in a C-2, M-1, M-2 or RM-2 zone;
2. May not be located within five hundred feet of a residence located within a residential zoning district;
3. May not exceed fifty feet in height;
4. May not exceed six hundred seventy-five square feet in sign area.

D. Billboards may be permitted within the urban district boundaries, as defined on the Butte-Silver Bow future land use map, per the following regulations:

1. Located in a C-2, M-1, M-2 or RM-2 zone;
2. May not be located within five hundred feet of a residence located within a residential zoning district;
3. May not exceed forty feet in height;
4. May not exceed three hundred square feet in sign area. (Ord. 447 § 5, 1993; Ord. 281 § 1(A) (part), 1986)

17.42.070 Nonconforming signs.

A. Determination of Legal Nonconformity. Existing signs which do not conform to the specific provisions of the ordinance codified in this title may be eligible for the designation "legal nonconforming" provided that the sign was covered by a valid permit or variance or complied with all applicable laws on the date of adoption of the ordinance codified in this title.

B. Loss of Legal Nonconforming Status. A legal nonconforming sign may lose this designation if:

1. The sign is relocated or replaced;
2. The structure or size of the sign is altered in any way except towards compliance with this title. This

does not refer to change of copy or normal maintenance.

C. Maintenance and Repair of Nonconforming Signs. The legal nonconforming sign is subject to all requirements of this code regarding safety, maintenance and repair however, if the sign suffers more than fifty percent appraised damage or deterioration, it must be brought into conformance with this code or removed. (Ord. 281 § 1(A) (part), 1986)

17.42.080 Construction specifications.

All signs shall be constructed in accordance with the adopted Uniform Sign Code or this title, whichever is the stricter of the two. Said signs must be inspected by the building inspector for compliance with construction specifications. (Ord. 281 § 1(A) (part), 1986)

17.42.090 Permit—Application.

Application for a permit for the erection, alteration, or relocation of a sign shall be made to the zoning enforcement officer upon a form provided by the zoning enforcement officer and shall include the following information:

- A. Name and address of the owner of the sign;
- B. Street address or location of the property on which the sign is to be located, along with the name and address of the property owner;
- C. The type of sign or sign structure as defined in this title;

D. A site plan showing the proposed location of the sign along with the location and square footage areas of all existing signs on the same premises;

E. Specifications and scale drawings showing the materials, design, dimensions, structural support, and electrical components of the proposed sign. (Ord. 281 § 1(A) (part), 1986)

17.42.095 Fees.

Each application for a sign permit shall be accompanied by applicable fees which shall be established by the council of commissioners by resolution. (Ord. 447 § 6, 1993)

17.42.100 Removal.

- A. Removal of Unsafe or Unmaintained Signs.
1. The building inspector shall require the removal of any sign found to be unsafe and unmaintained as required by this chapter. Before bringing such action to require the removal of an unsafe or unmaintained sign, the building inspector shall provide written notice to the owner of the sign or the owner of the premises upon which the sign is located. The notice shall specify that within thirty days the illegal sign shall be removed or brought into compliance with this section. The notice shall state the reasons for removal, specifying the deficiencies and violations; and such notice shall specify what repairs, if any, will make the sign and its support conform to the construction and maintenance requirements of this chapter. Notice shall be made personally on the owner or lessee, or by certified mail.
2. If the owner or lessee of the sign fails to remove the sign within the allowed time after receiving written notice, the building inspector shall take legal action to have the sign removed at the owner's expense.
- B. Immediate Removal of Dangerous Signs. If the building inspector finds that any sign or sign support is in violation of this section or the Uniform Sign Code, and that by reason of its condition it presents an immediate danger to the public, he shall order immediate repair or immediate removal. The building inspector shall take legal action to such sign if the person(s) responsible cannot be found or refuses to repair or remove the sign within ten days.
- C. Removal of Abandoned Signs. Any person who owns or leases a sign shall remove the sign within one hundred eighty days after it becomes an abandoned sign as defined by this chapter. If the owner or lessee cannot be located, the building inspector shall take legal action to have such sign removed. The cost of

removal shall be borne by the owner of the sign. In the event that the sign conforms with this chapter, the zoning officer may approve a sign permit to install a blank insert for the structure. (Ord. 281 § 1(A) (part), 1986)

17.42.110 Compliance.

All signs must conform to the adopted Uniform Building Code, adopted Uniform Sign Code, and highway department regulations or this title, whichever is stricter. (Ord. 281 § 1(A) (part), 1986)

Chapter 17.44

HOME OCCUPATIONS

Sections:

17.44.010	Applicability.
17.44.020	Permitted uses in certain zones.
17.44.030	Procedure.
17.44.040	Criteria for review.
17.44.050	Decision requirement.
17.44.060	Appeal procedure.
17.44.070	Revocation of certificate following hearing or appeal.
17.44.100	Uses allowed as home occupations.

17.44.010 Applicability.

The following regulations set forth in this chapter shall govern the operation of all home occupations. (Ord. 53 § 200-1 (part), 1978)

17.44.020 Permitted uses in certain zones.

Home occupations as defined by this title shall be permitted in any residential structure in any residential zone or any other zone which permits dwellings if such home occupations fully satisfy the criteria set forth in this chapter. (Ord. 175 § 1(C), 1982: Ord. 53 § 200-1, 1978)

Editor's Note: Ordinance 175 added a new section numbered 200-1 to Ordinance 53.

17.44.030 Procedure.

A. Initiation. Applications for conditional home occupation permits may be initiated by the property owner or his designated representative.

B. Applications, specifying the intended use, are submitted to the zoning enforcement officer.

C. The zoning officer may request that the applicant provide such additional information and specifications as may be necessary to evaluate the application. (Ord. 175 § 1(D), 1982: Ord. 53 § 200-2, 1978)

17.44.040 Criteria for review.

The following regulations shall govern the operation of all home occupations:

A. A home occupation shall not be permitted if it violates any other section of this title;

B. There shall be no structural alteration to accommodate the home occupation. Entrance to the space devoted to the occupation shall be from within the residence except where otherwise required by law;

C. The use area for a home occupation, including all storage space, shall not occupy more than twenty-five percent of the total floor area of either the residence and/or any garage or accessory building. Garage or accessory buildings shall only be used in conjunction with the home occupation for storage or incidental activities directly related to the home occupation and in no case shall auto repair, auto painting or other auto related activities be permitted;

D. Members of the family who reside on the premises and one employee in addition to members of the family involved in the home occupation and in any

case no more than two persons in any dwelling unit shall be engaged in said occupation;

E. There shall be no outside storage of materials, products, machinery, equipment or vehicles associated with said home occupation;

F. There shall be no window display nor shall sample commodities be displayed;

G. Commercial advertising, which includes but is not limited to advertising in:

(1) the yellow pages in a telephone directory;

(2) a newspaper;

(3) professional journals;

(4) trade journals or hobby journals, is restricted to those home occupations where such advertising will not generate any additional pedestrian or vehicular traffic, noise, or other impact on the residential areas in which they are located.

All other home occupations may advertise only in the classified section of the newspaper.

In all cases, only one nonluminous sign, not exceeding one square foot in area, bearing the name and occupation of the resident and placed flat against the residence is permitted;

H. Sale of products produced or directly resulting from an approved home occupation may be permitted subject to the approval of a conditional use permit by the zoning board of adjustment, wherein it is clearly demonstrated and zoning board finds that such sales activities will not be detrimental to the residential character of the property in question or the surrounding residential neighborhood.

In approving the request for sales, the zoning board of adjustment may impose appropriate conditions necessary to mitigate impacts to the residential character of the neighborhood.

Home occupations involving mail order sales shall not require a conditional use permit, providing such activities comply with all other requirements of this title;

I. No materials or mechanical equipment shall be used which will be detrimental to the residential use of said residence or surrounding residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factor;

J. Materials or commodities delivered to or from the residence which are of such bulk or quantity as to require delivery by a commercial motor vehicle or a trailer, or the parking of customer's automobiles in a manner or frequency causing disturbance or inconvenience to nearby residences or so as to necessitate a public parking lot shall be prima facie evidence that the occupation is a primary business and not a home occupation;

K. There shall be only one vehicle used for commercial purposes related to the home occupation for each dwelling unit;

L. Examples of uses which might normally satisfy the above criteria are: custom floristry; professional services; dressmakers; photographers; raising of tropical and similar fish; watch repairing; repair of small household appliances and hand carried radios and television sets; and similar uses. The following uses shall not be deemed home occupations: nursing homes; massage parlors; tea rooms; tourist homes; woodworking and cabinet shops; repairing of large household appliances (such as washers and stoves); furniture and cabinet size radios and television sets; and similar uses. (Ord. 216 § 1(A), 1984; Ord. 175 § 1(E), 1982; Ord. 53 § 200-3, 1978)

17.44.050 Decision requirement.

Within seven days after the receipt of the application, the zoning officer shall:

A. Deny the application and give the reason for denial, in writing, to the applicant; or

B. Approve the application and issue a zoning compliance certificate with conditions specified thereon. (Ord. 175 § 1(F), 1982; Ord. 53 § 200-4, 1978)

17.44.060 Appeal procedure.

Appeals of the zoning officer's decision may be made to the Butte-Silver Bow zoning board of adjustment as outlined in Section 17.54.080, Right of appeal, of this title. (Ord. 175 § 1(G), 1982; Ord. 53 § 200-5, 1978)

17.44.070 Revocation of certificate following hearing or appeal.

Any violation of the provisions of this chapter governing home occupations, may be cause for revocation of zoning compliance certificate after a hearing before the zoning board of adjustment. (Ord. 175 § 1(H), 1982; Ord. 53 § 200-6, 1978)

17.44.100 Uses allowed as home occupations.

Examples of uses which might normally satisfy the criteria set forth in this chapter are: barbers; custom floristry; beauticians; professional services; dressmakers; photographers; raising of tropical and similar fish; watch repairing; repair of small household appliances and hand-carried radios and television sets; and similar uses. The following uses shall not be deemed home occupations: nursing homes; massage parlors; tea-rooms; tourist homes; woodworking and cabinet shops; repairing of large household appliances (such as washers and stoves), furniture and cabinet size radios and television sets; and similar uses. (Ord. 53 § 200-1(I), 1978)

Chapter 17.46

PLANNED UNIT DEVELOPMENTS

Sections:

17.46.010	Primary intent.
17.46.020	Procedure
17.46.030	generally.
17.46.040	Preliminary plan—Submittal—Contents.
17.46.050	Preliminary plan—Referral to agencies for review.
17.46.060	Preliminary plan—Public hearing.
17.46.070	Preliminary plan—Review by commission.

- 17.46.070 Preliminary plan—Consideration of deed restriction or covenants.**
- 17.46.080 Preliminary plan—Approval, denial or recommendation of revision.**
- 17.46.090 Preliminary plan—Conditions attached upon approval.**
- 17.46.100 Request for amendment to zoning map.**
- 17.46.110 Appeals—Amendments—Final approval—Building permits.**
- 17.46.120 Time limit on completion.**
- 17.46.130 PUD zone—Requirements generally.**
- 17.46.140 PUD zone—Combined with other zones.**
- 17.46.150 PUD zone—Compliance required.**
- 17.46.160 Permitted and conditional uses.**
- 17.46.170 Density requirements.**
- 17.46.180 Minimum site size.**

17.46.010 Primary intent.

The purpose of a planned unit development (PUD) shall be to promote flexibility and innovation of development design and land utilization through the relaxation of zoning and subdivision regulations while maintaining the goals and objectives of the master plan and the intent of this title. Developers are encouraged to use a more creative approach in land development to provide more economical and efficient street and public utility improvements; to conserve resources and natural features; and to promote more desirable and efficient use of open space, land use relationships and overall design. (Ord. 225 § 1(D) (part), 1985; Ord. 53 § 210-1, 1978)

17.46.020 Procedure generally.

The following procedure set forth in this chapter shall be used when a proposal for a planned unit development is submitted for consideration. (Ord. 53 § 210-3 (part), 1978)

17.46.030 Preliminary plan—Submittal—Contents.

An applicant shall submit at least fifteen copies of a preliminary plan of a planned unit development to the zoning commission for study at least fifteen days prior to the zoning commission's meeting at which it will be discussed. The preliminary plan shall include but shall not be limited to the following information:

A. Proposed use, location, dimensions, height, and type of construction of all buildings; proposed number of dwelling units, if any, to be located in each building;

B. Proposed circulation pattern including the location, width, and surfacing of streets, private drives, and sidewalks; the location of any curbs; the status of street ownership; and the location of parking areas and the number of spaces therein;

C. Proposed use of all open spaces including a plan for landscaping;

D. Proposed grading and drainage pattern;

E. Proposed method and plan for provision of water supply, sewage disposal, and electrical facilities;

F. Economic and supporting data to justify any commercial and industrial development in an area not so zoned;

G. Relationship of the proposed development to the surrounding area and to the comprehensive plan. (Ord. 53 § 210-3(A), 1978)

17.46.040 Preliminary plan—Referral to agencies for review.

Prior to consideration of the preliminary plan, the plan shall be referred to any applicable agency or interest which may include the Butte-Silver Bow health and public works departments, any other utility districts or fire districts in the area where the proposed development would be located, the State Highway Department, and to any other appropriate federal, state, or local agencies. Officials of these agencies shall be given at least ten days to review the plan, suggest revisions, and return the plans to the zoning commission. (Ord. 53 § 210-3(B), 1978)

17.46.050 Preliminary plan—Public hearing.

A public hearing will be held for presentation of the preliminary plan. (Ord. 53 § 210-3(C), 1978)

17.46.060 Preliminary plan—Review by commission.

The zoning commission shall consider the preliminary development plan at a meeting, at which time the comments of persons receiving the plan for study shall be reviewed. In considering the plan, the zoning commission shall seek to determine that:

A. There are special physical conditions or objectives of the development which warrant a departure from the standard ordinance requirements.

B. The proposed development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area.

C. The area at least two hundred fifty feet from the outside boundary of the lot upon which the development is proposed, is or can be planned to be in substantial harmony with the proposal.

D. The plan can be completed within a reasonable period of time.

E. Any proposed commercial or industrial development can be justified economically.

F. The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.

G. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed and will not create a drainage or population problem outside the planned area. (Ord. 53 § 210-3(D), 1978)

17.46.070 Preliminary plan—Consideration of deed restriction or covenants.

In its review of the plan, the zoning commission or council may consider any deed restrictions or covenants entered into or contracted for by the developer concerning the use of common land permanent open space. "Common land" as herein contained shall refer to land dedicated to the public use and to land retained in private ownership but intended for the use of the residents of the development unit or the general public. (Ord. 53 § 210-3(E), 1978)

17.46.080 Preliminary plan—Approval, denial or recommendation of revision.

The zoning commission may approve, deny or recommend revision of the preliminary plan of the planned unit development. (Ord. 53 § 210-3(F), 1978)

17.46.090 Preliminary plan—Conditions attached upon approval.

If the preliminary plan for the planned unit development is approved, the zoning commission may attach conditions it finds necessary to carry out the purposes of this title. These conditions may include, but are not limited to, the following:

A. Increasing the required setbacks;

B. Limiting the height of buildings;

C. Controlling the location and number of vehicular access points;

D. Establishing new streets, increasing the right-of-way or roadway width of existing streets, requiring curbs and sidewalks, and, in general, improving the traffic circulation system;

E. Increasing the number of parking spaces and improving design standards for parking areas;

F. Limiting the number, size, location and lighting of signs;

G. Designating sites for open space and recreational development and, in general, improving landscaping requirements;

H. Requiring additional view-obscuring screening or fencing;

I. Requiring performance bonds to assure that the planned unit development is completed as approved within the time limit as established by the zoning commission;

J. Requiring appropriate contractual agreement with the county or with special districts to assure development of streets, curbs, gutters, sidewalks, and all utilities to acceptable standards. (Ord. 53 § 210-3(G), 1978)

17.46.100 Request for amendment to zoning map.

If the zoning commission approves the preliminary plan of the planned unit development, the applicant may initiate a request for an amendment to the zoning map to establish a PUD zone in combination with another zone. If the zoning commission finds to the contrary, it may recommend the application be denied, or returned to the applicant for revision. (Ord. 53 § 210-3(H), 1978)

17.46.110 Appeals—Amendments—Final approval—Building permits.

A. If the zoning commission denies a request for approval of a preliminary plan for a planned unit development, the applicant may appeal the decision to the council of commissioners. In the event that the council of commissioners approves the preliminary plan, the applicant may then initiate an amendment to the zoning map as specified in Section 17.46.100. Approval of an amendment and any provisions of the approval to establish a PUD zone shall constitute final approval of the plan for the planned unit development.

B. Building permits for all or any portion of a planned unit development shall be issued on the basis of the approved plan. An application for a building

permit shall be preceded or accompanied by submission of any required bonds or deeds for public dedication or contractual agreements for developments of public facilities. Any change in the approved plan shall be submitted to the zoning commission for processing as an amendment to the ordinance codified in this title. (Ord. 53 § 210-3(I), 1978)

17.46.120 Time limit on completion.

Upon abandonment of a particular development authorized under this chapter, or if substantial construction has not been initiated within one year from the date of its final approval, the zoning commission may determine that the granting of approval shall be nullified, the rezone automatically repealed, and further use of the property and structures thereon shall be in accordance with the existing zone, unless a request to extend the time limit is approved by the zoning commission. (Ord. 53 § 210-4, 1978)

17.46.130 PUD zone—Requirements generally.

The following requirements shall govern the use of a PUD zone. (Ord. 225 § 1(D) (part), 1985: Ord. 53 § 210-2 (part), 1978)

17.46.140 PUD zone—Combined with other zones.

A PUD zone may be established as an overlay zone to any zoning district or combination of districts. (Ord. 225 § 1(D) (part), 1985: Ord. 53 § 210-2(A), 1978)

17.46.150 PUD zone—Compliance required.

All development in a PUD zone shall be in compliance with a planned unit development permit which has been approved in accordance with the provisions of this section. (Ord. 225 § 1(D) (part), 1985: Ord. 53 § 210-2(B), 1978)

17.46.160 Permitted and conditional uses.

A planned unit development may include mixed land uses, providing such development shall be indirect proportion to the land area of the underlying zone or zones with the following exceptions:

1. Residential uses except as permitted in Sections 17.28.020 and 17.28.030, of this code, shall not be permitted in any M-1 or M-2 zone.

2. Uses permitted only in an M-1 or M-2 zone shall not be permitted in any residential, C-1 or E-1 zone.

3. Any industrial use proposed as part of the planned unit development and located in a C-2 or C-3 zone shall be directly related in purpose and function to the remainder of the planned unit development and shall not exceed thirty-five percent of the total floor area or use area of the development.

4. Where commercial uses are being developed in conjunction with residential development in a residential zone, construction of such commercial use shall not be initiated until twenty-five percent of the residential units have been developed.

5. Where a mixed land use planned unit development is proposed that would not normally be permitted in the underlying zone or does not meet the criteria above, a zone change to modify the underlying zone shall be required in addition to the planned unit development application. (Ord. 225 § 1(D) (part), 1985; Ord. 53 § 210-2(C), 1978)

17.46.170 Density requirements.

Modifications to the density, building heights, setbacks, parking and other design requirements of the underlying zone may be approved by the zoning commission, providing that such modifications shall not exceed twenty-five percent of the general requirements of the zone in which the development is located. In determining the density, land area dedicated for public streets or public parks shall not be included as part of the development area. However, land permanently set aside for common open space, recreation, private drives or streets and private parking shall be included in the development area. In granting these modifications, the zoning commission shall consider the character, design excellence, relationship to surrounding uses and lands, open space utilization, provisions of recreational facilities, ingress/egress and traffic circulation both vehicular and pedestrian, as well as impacts to public facilities including streets, water, sewer, schools and police and fire protection required and provided by the development. (Ord. 225 § 1(D) (part), 1985; Ord. 53 § 210-2(D), 1978)

17.46.180 Minimum site size.

No minimum site size shall be required provided that the development satisfies the intent and criteria of the zoning ordinance and other pertinent ordinances, regulations and laws. (Ord. 225 § 1(D) (part), 1985; Ord. 53 § 210-2(E), 1978)

Chapter 17.47

WATER CHANNEL MANAGEMENT ZONE

Sections:

- | | |
|------------------|---|
| 17.47.010 | Intent. |
| 17.47.020 | Permitted uses. |
| 17.47.050 | Minimum setback from the ordinary high water mark. |
| 17.47.060 | Minimum lot width. |
| 17.47.070 | Minimum front yard depth. |
| 17.47.080 | Minimum side yard width. |
| 17.47.090 | Minimum rear yard depth. |

- 17.47.100 Minimum development standards for private bridges.**
- 17.47.120 Submittal requirements for private bridges.**
- 17.47.140 Private bridges—Determination of compliance.**
- 17.47.150 Private bridges—Exemptions.**
- 17.47.170 Private bridges—Other applicable laws.**
- 17.47.500 Right of appeal.**
- 17.47.510 Variances.**
- 17.47.520 Enforcement and penalty.**

17.47.010 Intent.

A. To protect public health and safety, to protect the Big Hole River and Silver Bow Creek as vital public natural resources, to preserve agricultural uses, to safeguard the riparian and aquatic ecosystems and to protect wildlife and wildlife habitat.

B. To guide the installation of private bridges over the Big Hole River and Silver Bow Creek and recognize the relationships between private bridges, private land development, public access, agriculture and natural resource protection.

C. To protect the Big Hole River and Silver Bow Creek as important economic resources for Butte-Silver Bow city-county. (Ord. 04-3 § 5 (part), 2004)

17.47.020 Permitted uses.

Hereafter in the WCM zone, no building or structure shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any other than the following unless otherwise provided in this title:

A. Farming, ranching, gardening, fruit growing, agricultural production and storage, nurseries, including the sale of products raised on the premises; agricultural structures permitted include:

- 1. Barns;
- 2. Sheds; and
- 3. Coops.
- B. Dwellings.
 - 1. Single-family.
 - 2. Manufactured homes:
 - a. Class A;

- b. Class B; and
- c. Modular.
- 3. Day care homes, family or group, as per state law.

C. Accessory uses ordinarily appurtenant to any permitted use. Accessory structures, including private garages, shall conform to the setback requirements of Sections 17.08.070 through 17.08.090 of this title.

D. Irrigation ditches, diversion dams, related facilities, and private bridges as per the requirements of Sections 17.47.100, 17.47.120, 17.47.140, 17.47.150 and 17.47.170 of this chapter.

E. Other uses permitted under supplementary use regulations in Sections 17.38.170 through 17.38.240 of this title. (Ord. 05-4 § 4, 2005)

17.47.050 Minimum setback from the ordinary high water mark.

Minimum setback from the ordinary high water mark shall be one hundred and fifty feet. The minimum setback from the ordinary high water mark shall always take precedent over the setback requirements described in Sections 17.47.070, 17.47.080 and 17.47.090 of this chapter. (Ord. 05-4 § 5, 2004)

17.47.060 Minimum lot width.

Minimum lot width shall be one hundred fifty feet. (Ord. 05-4 § 6, 2005)

17.47.070 Minimum front yard depth.

Minimum front yard depth shall be twenty-five feet. When fronting on the right-of-way of a major thoroughfare shown on the official major thoroughfare plan, the front yard shall be measured from the proposed right-of-way line. (Ord. 05-4 § 7, 2005)

17.47.080 Minimum side yard width.

Minimum side yard width shall be fifteen feet, each side, unless abutting on a side street, in which case the side yard width shall be at least twenty feet including accessory structures. (Ord. 05-4 § 8, 2005)

17.47.090 Minimum rear yard depth.

Minimum rear yard depth shall be as follows:

- A. Thirty-five feet for a dwelling; and

B. Other buildings, twenty feet.
(Ord. 05-4 § 9, 2005)

17.47.100 Minimum development standards for private bridges.

The following are the minimum development standards for the location, design and installation of a private bridge over the Big Hole River or Silver Bow Creek:

A. Minimum Location Standards:

1. The proposed private bridge shall support existing agricultural operations. The proposed bridge shall not have a negative effect on agricultural water users and water user facilities;

2. The proposed private bridge shall not have an adverse effect on local services such as roads, public water systems, public sanitary and storm sewer systems;

3. The proposed bridge shall not have an adverse effect on the natural environment. This includes not having a negative impact on the riparian and aquatic ecosystems. The bridge shall not be located within three hundred feet of known fish spawning grounds;

4. The proposed private bridge shall not have an adverse effect on wildlife and wildlife habitat. This includes not placing the bridge within three hundred feet of wildlife migration corridors, feeding and breeding areas or watering holes;

5. The proposed bridge shall not have an adverse effect on public health and safety;

6. The applicant shall provide easements for public utilities over the bridge and within all required access easements to the bridge from a public right(s)-of-way;

7. The applicant shall provide legal and physical access to the bridge from an existing public right-of-way;

8. At no time will the bridge be allowed to be located on a dynamic section of the waterway or streambanks;

a. The bridge shall be located on a section of the waterway where the streambanks are currently armored and/or stable. Installing or making improvements to stabilize the waterway and stream-

banks for the proposed bridge's abutments shall not be allowed,

b. The proposed bridge location must demonstrate a minimum of fifty continuous years of substantial stability of the water channel and streambanks;

9. The applicant shall file at the Butte-Silver Bow city-county clerk and recorder's office an access easement allowing the following uses of the bridge:

a. That the proposed bridge be open for emergency service (fire, law enforcement, ambulance, search and rescue, etc.) access to both sides of the waterway,

b. That the proposed bridge and private road accessing the property and bridge from the public right(s)-of-way shall be open for emergency public access (ingress or egress in the case of fire, flood, earthquake, injury, etc.) over or into the waterway (e.g., emergency evacuation or access). The applicant shall provide a mechanism at the entrance(s) to the private road that will allow access for emergency service personnel and the public, and

c. That the proposed bridge and any private road extending from either side of the bridge can be used by the public temporarily (up to one hundred eighty consecutive days) if the nearest public bridge were to fail and/or alternative access is closed;

10. The proposed bridge location shall not be located within six hundred feet of an existing residence on an adjacent property not owned by the applicant.

B. Minimum Design Standards:

1. The proposed bridge shall free-span the river, and all structural supports shall be located outside of the channel and banks of the waterway;

2. The proposed bridge shall meet the width and design load standards described within the Butte-Silver Bow city-county subdivision regulations, Section 10(F);

3. The proposed bridge must have a minimum clearance of five feet between the lowest point of the bottom of the bridge and the highest elevation of the river during the one hundred-year flood to allow for safe passage under the bridge at all times;

4. The bridge must be colored brown or green in color; and

5. The bridge must be non-illuminated.

C. Miscellaneous Standards.

1. The area disturbed by the construction of the bridge shall be limited to fifteen feet from the outer most point of all bridge abutments, excluding the access road area. All natural vegetation above and below the proposed bridge construction area shall not be disturbed and shall be maintained in its natural condition. In addition, the applicant will be required to plant two two-inch caliper or larger trees (native species to the area) near each entrance to the bridge. The maintenance of the trees shall be included within the operations and maintenance plan;

2. The applicant shall agree in writing to comply with the Rural District 101—Growth Policy standards for all future development on the property that contains the bridge;

3. Temporary construction bridges shall not be allowed. All bridge construction shall be conducted from stable positions above the high water mark; and

4. The applicant shall submit a weed plan to the Butte-Silver Bow city-county weed supervisor for review and approval prior to beginning construction of the bridge. The weed management plan shall include the following:

a. A reclamation plan for all disturbed areas around the bridge and for all areas along the access road(s) to the bridge, and

b. A bond to secure the completion of the weed management plan. (Ord. 04-3 § 5 (part), 2004)

17.47.120 Submittal requirements for private bridges.

The following information must be submitted by the applicant to the planning department to determine if the proposed bridge meets the requirements of this policy:

A. A detailed description of the proposed bridge location, including the following information:

1. Soil types and existing vegetation in the site area, within one hundred feet up and down the river or stream of the proposed bridge location;

2. Documentation, certified by a registered hydrologist, that the section of the waterway and streambanks where the bridge is proposed have been stable for at least the past fifty consecutive years prior to the date of submittal;

3. Summary of potential effects of the proposed bridge on wildlife and wildlife habitat as determined by a qualified wildlife biologist. This includes certifying that the bridge will not be placed within three hundred feet of wildlife migration corridors, feeding and breeding areas or a watering hole; and

4. Summary of the potential effects on the natural environment as determined by a qualified biologist or a professional engineer. This includes certifying that the bridge will not adversely impact the riparian and aquatic ecosystems. The bridge shall not be located within three hundred feet of known fish spawning grounds.

B. A full set of engineering plans prepared by a professional engineer for the proposed bridge, including a detailed site plan and elevation drawing showing the height of the bridge over the river at normal flow elevation and at the one hundred-year floodplain elevation.

C. An explanation of the importance of the services provided by the proposed bridge. At a minimum, the explanation shall summarize the potential:

1. Effects on public health and safety;

2. Effects on agricultural operations and agricultural water users;

3. Effects on local services such as roads, public water systems, public sanitary and storm sewer systems;

4. Benefits to emergency service providers; and

5. Impacts on recreational activities at the proposed bridge location.

D. A bridge management plan setting forth procedures to address the following:

1. Removal of the bridge from the river if it is ever washed into the river;

2. Repairing the bridge should it ever become structurally unstable;

3. Yearly bridge inspection, operations and maintenance plan;

4. Replacement plan at the end of the life of the bridge;

5. Clearly name the responsible party and its contact information;

6. Clearly describe the responsible party's financial responsibility to fund all actions required by the bridge management plan;

7. The responsible party shall exclusively assume all short-term and long-term liability for the bridge and any incidents associated with it, including but not limited to damage, replacement and loss. Certification of sufficient liability insurance shall be submitted to Butte-Silver Bow city-county prior to beginning construction;

8. The bridge management plan shall be revised accordingly upon any change in ownership of the bridge or the property containing the bridge; and

9. The responsible party shall hold Butte-Silver Bow city-county harmless for any incidents, accidents or any other issues associated with the bridge prior to construction, during construction, after construction, during maintenance, during replacement, during inspections and during authorized or unauthorized use of the bridge. Certification to this effect shall be submitted to Butte-Silver Bow city-county prior to beginning construction.

E. Description of the proposed or existing access and utility easements to the bridge from the public right(s)-of-way, including an area map that documents the distance to the nearest public bridge and road over the same waterway.

F. An explanation of the relationship of the proposed bridge to the growth policy and the floodplain management program for the area.

G. The applicant shall submit a weed management plan to the Butte-Silver Bow city-county weed supervisor for review and approval prior to beginning construction of the bridge. The weed management plan shall include the following:

a. A reclamation plan for all disturbed areas around the bridge and for all areas along the access road(s) to the bridge; and

b. A bond to secure the completion of the weed management plan. (Ord. 05-4 § 10, 2005; Ord. 04-3 § 5 (part), 2004)

17.47.140 Private bridges—Determination of compliance.

A. The planning department director or his or her designee will determine if the private bridge proposal complies with the requirements of this policy.

B. The planning department director or his or her designee will notify the applicant in writing of the planning department's decision to approve or deny an application for a private bridge.

If the application is denied, the planning department director shall include in his or her written response to the applicant the reason(s) for denial.

C. Upon receiving notification of approval, the applicant shall notify all landowners immediately adjacent to the property in question by certified mail. The notification shall include a description of the proposed bridge and its location. (Ord. 05-4 § 11, 2005; Ord. 04-3 § 5 (part), 2004)

17.47.150 Private bridges—Exemptions.

The following shall be exempt from the requirements of Section 17.47.100(B)(2) of this chapter.

Pedestrian bridges with a maximum walking path width of five feet. (Ord. 05-4 § 12, 2005; Ord. 04-3 § 5 (part), 2004)

17.47.170 Private bridges—Other applicable laws.

A. If the application for a private bridge meets the provisions of the "private bridge policy," the applicant shall next apply for a floodplain development permit as per the requirements of Title 18, Floodplain Regulations of the Butte-Silver Bow City-County Municipal Code. The proposed bridge shall meet all requirements of the above-described title. The floodplain permit shall be a condition of final approval to install the bridge.

B. If the applicant proposes to access lots within a new subdivision from the proposed bridge, the applicant shall receive final approval for the proposed bridge certifying that the private bridge complies with both the "private bridge policy" and the floodplain regulations prior to submitting an application for subdivision approval from the Butte-Silver Bow

city-county planning board. If applicable, subdivision approval shall be a condition of final approval to install the bridge.

C. The installation of a proposed bridge over the Big Hole River and Silver Bow Creek shall be subject to all other applicable local, state and federal permits (including but not limited to: 404 Permit, 124 Permit, 310 Permit).

D. The proposed bridge shall conform to the objectives of the Butte-Silver Bow growth policy.

E. Part of the Big Hole River is classified as “navigable waterway” under the ownership of the state of Montana. The installation of a bridge over a navigable portion of the river will require an easement from the State Land Board prior to installation, and the easement shall be a condition of final approval to install the bridge. (Ord. 05-4 § 13, 2005; Ord. 04-3 § 5 (part), 2004)

17.47.500 Right of appeal.

The applicant shall have the right to appeal the planning director’s or his or her designee’s decision to the zoning board of adjustment as per the requirements described within the zoning ordinance, Chapter 17.54 of the Butte-Silver Bow Municipal Code, board of adjustment. (Ord. 04-3 § 5 (part), 2004)

17.47.510 Variances.

The applicant shall have the right to apply for a variance as per the requirements described within the zoning ordinance, Chapter 17.54 of the Butte-Silver Bow Municipal Code, board of adjustment, and the process set forth in the Big Hole River conservation development standards intergovernmental agreement. For variances to Section 17.47.050 on the Big Hole River, the following special procedures shall apply:

A. The planning staff shall distribute copies of a Big Hole River variance application to the Big Hole River conservation development standards review board (review board), as well as to the zoning board of adjustment.

B. The applicant shall allow county representatives, project engineers and other involved local, state and federal officials or review board members access to the proposed development. The review board may

consult with pertinent county, state, and federal agencies during its review of the variance application. If the proposed structure is located within a designated floodplain an independent professional engineer review is required as per the Butte-Silver Bow floodplain regulations. When required, the applicant shall pay for all independent professional engineer review fees.

C. The review board shall review the variance application based on its independent process and procedure, as established by its bylaws and according to the guidelines outlined in the Big Hole River development standards intergovernmental agreement.

D. Within thirty days of Butte-Silver Bow planning department’s receipt of a completed variance application, the review board shall meet to review the application and make a written recommendation to the zoning board of adjustment.

E. Upon receipt of the review board’s written recommendations, the planning department shall forward the application and review board’s written recommendation to the zoning board of adjustment, which shall comply with all requirements of Chapter 17.54 of this title.

F. Written notice of the final decision shall be mailed to the applicant and the review board. If denied, the notice shall include an explanation of the basis for the denial. In the event of conditional approval, all conditions must be met prior to the county’s issuance of the permit. (Ord. 05-4 § 14, 2005; Ord. 04-3 § 5 (part), 2004)

17.47.520 Enforcement and penalty.

All violations of the WCM zone shall be subject to Chapter 17.56 of the Butte-Silver Bow Municipal Code, enforcement and penalty. (Ord. 05-4 § 15, 2005; Ord. 04-3 § 5 (part), 2004)

Chapter 17.48

NONCONFORMING USES

Sections:

17.48.010

17.48.020

Intent.

Lots of record.

17.48.030	Uses of land.
17.48.040	Buildings or structures.
17.48.050	Uses within structures.
17.48.060	Repairs and maintenance.
17.48.070	Cessation of vehicle wrecking facility or junkyard.
17.48.080	Record of nonconformities.

17.48.010 Intent.

Within the zones established by this title, or amendments that may later be adopted, there exist lots, structures, uses of land and structures, and characteristics of use, which were lawful before the ordinance codified in this title was passed or amended, but which would be prohibited, regulated or restricted under the terms of this title or future amendment. It is the intent of this title to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this title that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone. Nonconforming uses are declared by this title to be incompatible with permitted uses in the zones involved. However, to avoid undue hardship, nothing in this title shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the ordinance codified in this title and upon which actual building construction has been carried on diligently. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently. (Ord. 53 § 220-1, 1978)

17.48.020 Lots of record.

A. In any zone in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any vacant single lot with frontage of sixty feet or more of record at the effective date of adoption or amendment of the ordinance codified in this title. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply, even though such lot fails to meet the requirements for area or width or both, that are generally applicable in the zone; provided, that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the zone in which such lot is located. An additional variance of area width and yard requirements shall be obtained only through affirmative action of the board of adjustment.

If two or more vacant lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of the ordinance codified in this title, and if all or part of the lots do not meet the requirements for lot widths and area as established by this title, the lands involved shall be considered to be an undivided parcel for the purpose of this title. No portion of said parcel shall be used in a manner which does not meet lot width and area requirements established by this title.

B. In any zone in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any vacant single lot with a frontage of less than sixty feet where said lot was of record at the effective date of the adoption or amendment of the ordinance codified in this section; providing, however, a minimum side yard setback of five feet and adequate vision clearance on corner lots, as well as all other requirements of this title have been satisfied. (Ord. 215 § 1(A), 1984; Ord. 137 § 1 (part), 1981; Ord. 129 § 1 (part), 1981; Ord. 53 § 220-2, 1978)

17.48.030 Uses of land.

Where, at the effective date of adoption or amendment of the ordinance codified in this title, lawful use of land exists that is made no longer permissible under the terms of the ordinance codified in this title, as enacted or amended, such use may be continued, so long as it remains otherwise lawful subject to the following provisions:

A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance codified in this title;

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of the ordinance codified in this title;

C. If any such nonconforming use of land ceases for any reason for a period of one year, any subsequent use of such land shall conform to the regulations specified by this title for the zone in which such land is located. (Ord. 201 § 1(A), 1983; Ord. 53 § 220-3, 1978)

17.48.040 Buildings or structures.

Where a lawful structure exists at the effective date of adoption or amendment of the ordinance codified in this title that would not be built under the terms of this title by reason or restriction on area, lot coverage, height, yards or other characteristics of the structure, such structure may be continued so long as it remains lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity, unless an enlargement or structural alteration makes the building more conforming or is required by law, but any structure or portion thereof may be altered to decrease its nonconformity;

B. Should such structure be destroyed and rebuilding not started within one year from the date of destruction, it shall not be reconstructed except in conformity with the provisions of this title;

C. Except for mobile homes, should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved;

D. Where a nonconforming structure exists at the effective date of the ordinance codified in this title and the structure is a mobile home unit which is nonconforming due to lot coverage and/or building setback requirements, said mobile home unit may be replaced with another mobile home unit providing the replacement unit does not increase or enlarge the nonconformity and providing further that the replacement unit complies with all other requirements of the zone in which the unit is located except lot coverage or building setbacks only if such replacement occurs within one year from the date of removal of the original nonconforming structure. Otherwise, such replacement unit must conform to the requirements of this title.

E. Structural alterations may be permitted if necessary to adopt a nonconforming building or structure to new technologies or equipment pertaining to uses housed in such building or structure. Any enlargement necessary to adopt to such new technologies shall be authorized only by a variance by the zoning board of adjustment. (Ord. 224 § 1(E), 1984; Ord. 201 § 1(I), 1983; Ord. 53 § 220-4, 1978)

17.48.050 Uses within structures.

If a lawful use of a structure, or of structures and premises in combination, exists at the effective date of adoption or amendment of the ordinance codified in this title, that would not be allowed in the zone under the terms of this title, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this title in the zone in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing to the use permitted in the zone in which it is located;

B. A nonconforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use at the time of

adoption or amendment of the ordinance codified in this title, but no such use shall be extended to occupy any land outside such building;

C. If no structural alterations are made, any nonconforming use of a structure or structure and premises, may be changed to another nonconforming use; provided, that the board of adjustment, either by general rule or by making findings in the specific case, finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use, in appropriate conditions and with safeguards in accord with the provisions of the ordinance codified in this title;

D. Any structure or structures and premises in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the zone in which such structure is located, and the nonconforming use may not be thereafter resumed;

E. If a nonconforming use within a structure, or structures and premises in combination, is discontinued or abandoned for any reason and is not rebuilt within one year, the structure or structures and premises in combination shall not thereafter be used except in conformance with the regulations of the zone in which it is located, unless a variance has been granted. (Ord. 53 § 220-5, 1978)

17.48.060 Repairs and maintenance.

Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official. (Ord. 53 § 220-6, 1978)

17.48.070 Cessation of vehicle wrecking facility or junkyard.

Notwithstanding any other provisions of this title, any motor vehicle wrecking facility (as defined in Section 69-6801 (1) of the Revised Codes of Montana, 1947) or other junkyard in existence in any residential, commercial or rural zone at the date of enactment of the ordinance codified in this title shall, at the expiration of four years from such date, become a prohibited and unlawful use and shall be discontinued; save and except that this cessation provision shall not apply to any motor vehicle wrecking facility which was properly licensed and screened under the provisions of Title 69, Chapter 68, Revised Codes of Montana, 1947, on the effective date of the ordinance codified in this title, and continues to remain so licensed. (Ord. 53 § 220-7, 1978)

17.48.080 Record of nonconformities.

The zoning officer shall ascertain the date upon which any nonconforming use was established or acquired and shall prepare a map showing the exact location of the nonconforming uses of structures or structure and premises and shall prepare for each nonconforming use a file containing the name and address of the owner and other information deemed appropriate by the zoning officer, board of adjustment, zoning commission or council of commissioners. (Ord. 53 § 220-8, 1978)

Chapter 17.50

EXCEPTIONS AND MODIFICATIONS

Sections:

17.50.010	Dwelling on any lot of record.
17.50.020	Height limitations not applicable.
17.50.030	Yards and frontage.
17.50.040	Yard projections.

17.50.010 Dwelling on any lot of record.

In any zone where dwellings are permitted, a one-family detached dwelling may be erected on any lot of official record with frontage of sixty feet or more at the effective date of the ordinance codified in this title, irrespective of its area; provided, the applicable yard and other open space requirements are complied with. (Ord. 90 § 1(J), 1979; Ord. 53 § 230-1, 1978)

17.50.020 Height limitations not applicable.

The height limitations stipulated elsewhere in this title shall not apply to the following (except within the airport zones):

A. Barns, silos or other farm buildings or structures on farms; church spires, belfries, cupolas and domes, observation towers, transmission towers, windmills, chimneys, smokestacks, flagpoles, radio and television towers, masts and aerials, parapet walls extending not more than four feet above the limiting height of the building;

B. Places of public assembly in churches, schools, and other permitted public or semi-public buildings; provided, that these are located on the first floor of such buildings; and, provided, that for each three feet by which the height of such buildings exceeds the maximum height otherwise permitted in the zone its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the zone;

C. Elevator penthouses, water tanks, monitors, and scenery lofts; provided, no linear dimension of any such structure exceeds fifty percent of the corresponding street lot line frontage; towers and monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders or other structures, where the manufacturing process requires a greater height;

D. All such structures above the heights otherwise permitted in the zone shall not occupy more than twenty-five percent of the area of the lot and shall be distant not less than fifty feet in all parts from every lot line not a street lot line. (Ord. 53 § 230-2, 1978)

17.50.030 Yards and frontage.

A. Average Depth of Front and Rear Yards. In any zone where front or rear yards are required, whenever the average depth of at least two existing front or rear yards on lots within one hundred feet of the lot in question and within the same block is less than the minimum front or rear yard depth prescribed elsewhere in this title, the required depth of the front or rear yards on said lot shall be modified. In such cases, this modification shall not be less than the average depth of the existing front or rear yard of those lots within one hundred feet on the same block as the affected lot.

B. Steep Slopes—Front Yard Garage. In any residential zone where the natural grade of a lot within the required front yard has an average slope, normal to the front lot line at every point along said line, of such a degree or percent of slope that it is not practicable to provide a driveway with a grade of twelve percent or less to a private garage conforming to the requirements of this title, such garage may be located within such front yard, but not in any case closer than twelve feet to the street line.

C. Double Frontage Lots. Applicable front yards must be provided on both streets in the case of buildings on through lots.

D. Side Yard Modification. Each side yard where required, may be reduced when the following conditions exist:

1. Extension of an established nonconforming building line;

2. If the established building line is consistent with the side yard setback pattern prevalent within the same block or across an adjoining street or alley of the property in question;

3. No portion of the building will project beyond the property line; and

4. Written approval of the adjacent property owner.

E. Frontage Modification. In the case of curvilinear streets and cul-de-sacs, the zoning commission may authorize a reduction of the otherwise specified frontage or lot width in residential zones along the front property line; provided, that:

1. The lot width at the building line shall equal the frontage or lot width required in the zone where located;

2. The front lot line shall not be less than thirty feet in any event; and

3. Such reduction of frontage shall not result in a reduction of the required lot area.

F. Accessory Structures. In any residential area the side and rear yard requirements for an accessory structure may be reduced upon the decision by the zoning officer based on the following criteria:

1. Only if the prevalent surrounding construction indicates;

2. Only if written approval of adjacent landowner is received with good cause shown; and

3. Only if no portion of the building projects past the property lines.

G. Lot Coverage. The following shall pertain only to new construction or additions to dwellings and customary residential accessory structures on lots with frontages of less than sixty feet: In any R (Residential) zone where a maximum lot coverage for residential development is prescribed, lot coverage may be increased upon the decision of the zoning officer based on the following criteria:

1. Where the developer or his/her agent can demonstrate that adjacent existing residential development on those lots within three hundred feet and located within the same block or across an adjoining street or alley of the property in question exceeds the maximum prescribed lot coverage, the lot coverage on the lot in question may be increased not to exceed the average lot coverage of those lots described above;

2. In no case, however, shall the increase in lot coverage exceed sixty-five percent of the total lot area. (Ord. 436 § 1, 1992; Ord. 312 § 1 (part), 1987; Ord. 296 § 1 (part), 1987; Ord. 295 § 1 (part), 1987; Ord. 215 § 1(B, C), 1984; Ord. 129 § 1 (part), 1981; Ord. 91 § 1, 1979; Ord. 53 § 230-3, 1978)

17.50.040 Yard projections.

Certain architectural features may project into required yards or courts as follows:

A. Into any required front yard, or required side yard adjoining a side street lot line.

B. Cornices, canopies, eaves, or other architectural features, may project a distance not exceeding two feet six inches.

C. Fire escapes may project a distance not exceeding four feet six inches.

D. An uncovered stair and necessary landings may project a distance not to exceed six feet; provided, such stair and landing shall not extend above the entrance floor of the building except for a railing not exceeding three feet in height.

E. Bay windows, balconies, uncovered porches and chimneys may project a distance not exceeding three feet; provided, that such features do not occupy, in the aggregate, more than one-third of the length of the building wall on which they are located.

F. Subject to the limitations in subsections A through E of this section, the abovenamed features may project into any required side yard adjoining an interior side lot line, a distance not to exceed one-fifth of the required least width of such side yard, but not exceeding three feet in any case.

G. Subject to the limitation in subsection F of this section, the features named therein may project into any required rear yards the same distances they are permitted to project into a front yard. (Ord. 53 § 230-4, 1978)

Chapter 17.52

CHANGES AND AMENDMENTS

Sections:

**17.52.010 Hearing—
Procedure.**

**17.52.020 Hearing—
Decision.**

17.52.030 Protest.

**17.52.040 Creation of
transition (T) districts.**

17.52.010 Hearing—Procedure.

A. Whenever public necessity and the general welfare require it, boundaries of the zones, zoning districts and zoning regulations or restrictions established by this title may be amended. Such requests to amend, change, modify or repeal the zoning boundaries or restrictions shall be initiated by one of the following:

1. A resolution of intention of the council of commissioners; or
2. A resolution of intention of the zoning commission; or
3. A verified petition of an owner(s) of the affected property or his/her designated attorney-in-fact, a developer upon written consent of the property owner; or
4. A plaintiff in an action in eminent domain to acquire the property as to which the zone or property use amendment is proposed.

B. All proposals, except interim zoning ordinances, to amend zoning boundaries, establish zoning districts, or to amend or repeal zoning regulations and restrictions shall be submitted to the zoning commission for their consideration on a form prescribed by the zoning commission, including such fees as established by the council of commissioners.

C. Upon receipt of a valid petition or application to amend, change, modify or repeal the zoning boundaries, regulations or restrictions, the secretary of the zoning commission shall give notice of a public hearing to consider said zone change or zoning ordinance amendment.

D. Notice of the public hearing shall be at least fifteen days in advance and shall be by posting the affected property with a sign stating the date, time and place of the hearing and by publication in a newspaper of general circulation within the jurisdiction of Butte-Silver Bow, state of Montana. (Ord. 225 § 1(B) (part), 1985: Ord. 53 § 250-1, 1978)

17.52.020 Hearing—Decision.

A. Prior to the hearing or the conclusion thereof, the zoning commission shall make, or cause to be made, an investigation of the facts bearing upon the petition or application set for the hearing in order to provide information necessary to ensure that any action taken on the petition or application will be consistent with the master plan and the purpose of this title.

B. Any interested person(s) may appear and speak for or against the petition or application at the public hearing or submit any comments regarding said petition or application prior to or during said public hearing.

C. Upon completion of the public hearing, the zoning commission shall render its decision to the council of commissioners. Such decisions shall be advisory only and shall recite the findings of the zoning commission upon which the decision is made.

D. After receiving the recommendation of the zoning commission, except for interim zoning ordinances, the zoning district boundaries or other zoning regulations and restrictions in this title, may be amended, supplemented, changed, modified or repealed by the passage of an appropriate ordinance by the council of commissioners. Provided, however, before the council acts on amending the zoning ordinance or zoning district boundaries, a public hearing shall be held by the council at which any party in interest or member of the public shall have an opportunity to be heard. At least fifteen days notice of the time and place of such hearing shall be given by publication in a newspaper of general circulation within the jurisdiction of Butte-Silver Bow, state of Montana and by posting a sign of said notice on the front of the land or structure that is proposed to be changed.

E. Action of the council of commissioners regarding said petition or application shall be final and shall become effective within thirty days, except for interim zoning ordinances which shall become effective immediately, upon passage. (Ord. 225 § 1(B) (part), 1985: Ord. 53 § 250-2, 1978)

17.52.030 Protest.

In case of protest against a change in this title, signed by the owners of twenty percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred and fifty feet therefrom, or of those adjacent on either side thereof within the same block, or of those directly opposite thereof extending one hundred fifty feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the council of commissioners. (Ord. 53 § 250-3, 1978)

17.52.040 Creation of transition (T) districts.

A. Purpose. The purpose of a transition (T) district is to permit orderly, proper and harmonious growth of a lower district into an adjacent higher district where such growth is in keeping with the best development of both districts and the total area covered by this title.

B. 1. Method. Requests for establishing a transition (T) district shall be as covered under Chapter 17.56 and other applicable portions of this title.

2. Should the zoning commission decide in favor of the request, the planning director shall, within two weeks, recommend the amending ordinance to the council of commissioners for processing as per Sections 17.52.010 and 17.52.020.

C. Uses Permitted. Any use permitted in the amended lower zone in which the T district is combined is permitted, subject to direct review and approval of provisions and requirements of this title. In granting or denying a proposed use and in establishing conditions for said use, the director shall be governed by the specific standards adopted in the ordinance creating the T district as well as the general standards provided for in this title.

D. Standards. The planning director's recommendation of a particular T district to the council of commissioners shall include specific development standards and may include performance standards. The T districts and the T districts' specific standards shall be adopted concurrently. Such standards may provide for:

1. Special setbacks, yards, open spaces, and buffers;
2. Fences and walls;
3. Lighting;
4. Regulation of points of vehicular ingress and egress;
5. Regulations of signs;
6. Regulations of time of certain activities;
7. Requiring landscaping and maintenance thereof;
8. Requiring maintenance of grounds;
9. Time period in which the proposed use shall be developed;

10. Regulation of odors, smoke, dust, flying ash, or airborne solids;

11. Regulations of vibration, glare, and heat;

12. Such other conditions as will make possible development of Butte-Silver Bow in an orderly and efficient manner and in conformity with the intent and purpose of this title. Any use permitted in the T district shall be established and conducted in conformity with the terms and conditions applicable in the T district.

E. Designation. Should a lower zone (i.e. C-1 local business zone) be approved to expand into a higher district (i.e. R-2 multiple-family residence zone) as a transitional T district under the provisions of this chapter, it would then be designated as a combined district (i.e. C-l-T) and all of the provisions of the main (i.e. C-1) zone would be applicable but with the special standards of the T district taking precedence where these are more stringent.

F. Alternate Procedures. Where a proposed change of zone qualifies under Chapter 17.46 of this title, this procedure shall be required in lieu of subsections A, B, C, D and E of this section. (Ord. 53 § 250-4, 1978)

Chapter 17.54

BOARD OF ADJUSTMENT

Sections:

- 17.54.010 Created—Composition—Members' qualifications, terms, removal—Vacancy filling.**
- 17.54.020 Meetings.**
- 17.54.030 Appeals.**
- 17.54.040 Stay of proceedings.**
- 17.54.050 Hearings.**
- 17.54.060 Powers.**
- 17.54.070 Board vote.**
- 17.54.080 Right of appeal.**
- 17.54.090 Court review of decision.**
- 17.54.100 Original papers.**
- 17.54.110 Testimony.**
- 17.54.120 Costs.**

17.54.010 Created—Composition—Members' qualifications, terms, removal—Vacancy filling.

There is created a board of adjustment which shall consist of seven members to be appointed by the chief executive and confirmed by the council of commissioners. All members of the board must reside within the jurisdictional boundaries of the Butte-Silver Bow city-county planning board and at least two of the members shall be resident freeholders of Butte-Silver Bow. The term of each member shall be three years, and they may be removed for cause by a two-thirds majority of the confirming authority upon written charges and after public hearing. Vacancies on the board shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed and confirmed. (Ord. 304 § 1, 1987; Ord. 53 § 260-1, 1978)

17.54.020 Meetings.

The board shall adopt rules to govern its proceedings which rules may not be inconsistent with this title or the laws of the state of Montana. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the

public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. (Ord. 53 § 260-2, 1978)

17.54.030 Appeals.

Appeals to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality effected by any decision of the enforcing officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed was taken. (Ord. 53 § 260-3, 1978)

17.54.040 Stay of proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate of stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown. (Ord. 225 § 1(A), 1985; Ord. 53 § 260-4, 1978)

17.54.050 Hearings.

The board shall fix a reasonable time for the hearing of the appeal. The board shall further publish the request for a variance in a newspaper of general circulation in Butte-Silver Bow, and shall direct that a sign be placed in front of the structure or premises for which the variance is requested. Upon the hearing

any party may appear in person or by attorney. (Ord. 53 § 260-5, 1978)

17.54.060 Powers.

The board shall have the following powers:

A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the enforcing officer in the enforcement of this chapter of this title;

B. To hear and decide special exceptions to the terms of this title upon which such board is required to pass under such ordinance;

C. To authorize upon appeal in specific cases such variance from the terms of this title as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the title will result in unnecessary hardship, and so that the spirit of this title shall be observed and substantial justice done;

D. In exercising the abovementioned powers, such board may, in conformity with the provisions of this title, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. (Ord. 53 § 260-6, 1978)

17.54.070 Board vote.

The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the enforcing officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this title, or to effect any variation in this title. (Ord. 53 § 260-7, 1978)

17.54.080 Right of appeal.

Any person or persons, jointly or severally, aggrieved by any decision of the board, or any taxpayer, or any officer, department, board or bureau of the local government, may present to the district court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the

grounds of the illegality. Such petition shall be presented to the district court within thirty days after the filing of the decision in the office of the board. (Ord. 137 § 1 (part), 1981; Ord. 53 § 260-8, 1978)

17.54.090 Court review of decision.

Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board to review such decision of the board and shall prescribe therein the time within which a return thereto must be made and served upon the individual's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, or notice to the board and on due cause shown, grant a restraining order. (Ord. 07-5 § 2, 2007; Ord. 137 § 1 (part), 1981; Ord. 53 § 260-9, 1978)

17.54.100 Original papers.

The board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. (Ord. 137 § 1 (part), 1981; Ord. 53 § 260-10, 1978)

17.54.110 Testimony.

If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. (Ord. 53 § 260-11, 1978)

17.54.120 Costs.

Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross

negligency, or in bad faith, or with malice in making the decision appealed from. (Ord. 58 § 260-12, 1978)

Chapter 17.56

ENFORCEMENT AND PENALTY

Sections:

17.56.010	Enforcement authority.
17.56.020	Zoning officer—Duties.
17.56.030	Building permit—Certificate of occupancy.
17.56.040	Permit fees.
17.56.050	Temporary certificate of occupancy.
17.56.060	Plans to accompany applications.
17.56.070	Commencement of construction.
17.56.080	Demolition.
17.56.100	Inspections—Notice of noncompliance.
17.56.110	Violation—Penalty.

17.56.010 Enforcement authority.

The Butte-Silver Bow planning director or his designated representative is established as the zoning officer of Butte-Silver Bow, state of Montana and is hereby appointed with the authority of and responsibility to enforce compliance with the zoning ordinance codified in this title, subject to such variations and interpretations which may be made by the zoning commission. Excepting therefrom, however, enforcement of Chapter 17.33, the historic overlay zone, which shall be the responsibility of the preservation officer and the preservation commission. (Ord. 238 § 1(C) (part), 1985: Ord. 225 § 1(C) (part), 1985: Ord. 135 § 1 (part), 1981: Ord. 53 § 240-1, 1978)

17.56.020 Zoning officer—Duties.

The zoning officer shall:

A. Maintain files and records to document fee receipts, the issuance of permits, petitions, agendas, minutes, record of public hearings, and other matters relating to zoning within Butte-Silver Bow, state of Montana. Such files and records shall be available and open for public inspection during regular business hours, unless otherwise determined by the Butte-Silver Bow, state of Montana attorney;

B. Receive and process rezoning petitions and requests for variances, conditional uses, special uses, planned unit developments, and appeals, in accordance with the provisions of this title, and collect fees for such petitions and requests;

C. Publish notice of public hearings as required by this title and applicable state statutes;

D. Prepare such materials (maps, agendas, property descriptions, survey sheet) as may be necessary for the zoning commission, board of adjustment or council of commissioners to properly conduct meetings for the purpose of administering this title;

E. In consultation with other affected local government departments, make written recommendations on petitions and requests to the zoning commission, board of adjustment (except on appeals), and the council of commissioners, including reports and/or background information related to such petitions or requests;

F. Ensure all materials and documents relating to zoning within Butte-Silver Bow are properly filed with the clerk and recorder as required by the applicable statutes;

G. Act as executive secretary to the zoning commission and board of adjustment;

H. Provide zoning information to the public and government agencies and officials, and interpret the meaning and intent of this title and otherwise promote procedural uniformity in the administration of this title;

I. Initiate appropriate investigatory action for apparent zoning violations through coordination with the Butte-Silver Bow, state of Montana attorney;

J. Inspect the premises in the performance of his duties. The zoning officer and authorized representatives of the zoning officer shall have the right to enter any building or premises for the purpose of investigation and inspection, provided that such entry shall be exercised only at reasonable hours, and in no case shall entry be made without consent and in the absence of the owner or tenant thereof without written order of a court of competent jurisdiction. (Ord. 225 § 1(C) (part), 1985; Ord. 53 § 240-2, 1978)

17.56.030 Building permit—Certificate of occupancy.

Before any land, building, or premises, or part thereof, may hereafter be constructed, erected, changed, relocated, converted, wholly or in part, in its use or structure, a building permit shall be issued by the building and code enforcement department to the effect that such buildings and the use proposed therein, conform to the provisions of the latest adopted addition of the Uniform Building Code (UBC).

A certificate of occupancy shall be issued by the building official upon completion of all improvements required by the building permit. (Ord. 238 § 1(D) (part), 1985; Ord. 53 § 240-3, 1978)

17.56.040 Permit fees.

The council of commissioners shall establish by resolution a schedule of fees, charges and expenses and a collection procedure for appeals and other matters pertaining to this title.

No building permit, zone change, special use, conditional use, variance, planned unit development or other permit or license subject to the provisions of the ordinance codified in this title shall be issued unless or until such costs, charges, fees or expenses established by resolution of the council of commissioners have been paid in full, nor shall any action be taken on proceedings before the board of adjustment or planning board, unless or until preliminary charges and fees have been paid in full.

Where work for which a permit is required by this title is started or proceeded with prior to obtaining said

permit, the fees established by the council of commissioners shall be doubled. The payment of such doubled fees shall not relieve any person from fully complying with the requirements of this title in the execution of the work nor from any other penalties prescribed herein. (Ord. 235 § 1(C), 1985; Ord. 121 § 1, 1980; Ord. 53 § 240-4, 1978)

17.56.050 Temporary certificate of occupancy.

Temporary certificates of occupancy may be issued for a period not exceeding six months, during the completion of any alterations, or during a partial occupancy of such building. Such temporary certificate shall not be extended, nor shall it, in any way, affect the rights, duties, and obligations of the owner or the governing authority, relative to the use or occupancy of the premises covered, or any other matter covered by this chapter. (Ord. 53 § 240-5, 1978)

17.56.060 Plans to accompany applications.

Each application for a location or improvement permit must be accompanied by a plan drawn to scale and in such form as may be prescribed by the enforcing officer, showing the actual size and dimensions of the lot to be built upon, the size of the building to be erected, and such other information as may be necessary to provide for the endorsement of the regulations contained in this title, and the issuance, as before required, of a certificate of occupancy. The enforcing officer shall file a careful record of such application and plan. (Ord. 53 § 240-6, 1978)

17.56.070 Commencement of construction.

It is unlawful to allow any basement excavation upon which a building is not constructed to be left unfilled or uncovered, if intense building is not started upon said excavation within sixty days of excavation and worked on continuously until completed. (Ord. 53 § 240-7, 1978)

17.56.080 Demolition.

Any person who moves or demolishes a building or structure must obtain a permit from the building and code enforcement department. In addition, buildings, headframes and pertinent elements to be moved or demolished and located within the historic overlay zone, shall be subject to the review process established in Section 17.33.040 of this code.

Where buildings or structures have been removed or demolished, the ground shall be leveled and all debris removed. (Ord. 238 § 1(D) (part), 1985; Ord. 53 § 240-8, 1978)

17.56.100 Inspections—Notice of noncompliance.

If, on any inspection, the condition of a building or premises or its use or occupancy is found not to conform to the requirements of this title, or conditions of an existing certificate have not been complied with, the enforcing officer shall at once issue written notice to the owner specifying the manner in which the building or premises or its use or occupancy fails to so conform. The owner shall at once take steps to make it so conform as directed by the enforcing officer. (Ord. 53 § 240-10, 1978)

17.56.110 Violation—Penalty.

Any person, firm or corporation owning, controlling or managing any building or premises wherein or whereupon there shall be placed or there exists anything in violation of the provisions of this title; or, any person, firm or corporation who assists in the commission of any violation of these provisions, or who shall build contrary to the plans and specifications submitted to, and approved by, the enforcing officer; or, any person, firm or corporation who omits, neglects, or refuses to do any act required in these provisions or removes, moves or demolishes any building, headframe or pertinent element located in the historic overlay zoning district without approval shall be subject to a fine of not more than five hundred dollars or six months in jail or both. Each day during which a violation exists shall constitute a separate offense punishable hereunder. (Ord. 238 § 1(D) (part), 1985; Ord. 53 § 240-9, 1978)